# 2020

# CUMULATIVE SUPPLEMENT

TO

# MISSISSIPPI CODE

## 1972 ANNOTATED

**Issued December 2020**

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2020 REGULAR SESSION

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# Volume 13

Titles 55 to 57

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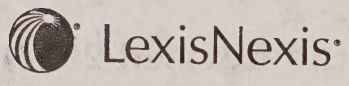


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# User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

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# PUBLISHER'S FOREWORD

**Statutes**

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

**Annotations**

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

**Amendment Notes**

Amendment notes detail how the new legislation affects existing sections.

**Editor's Notes**

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

**Joint Legislative Committee Notes**

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

**Tables**

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

**Index**

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

**Acknowledgements**

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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December 2020 LexisNexis

# SCHEDULE OF NEW SECTIONS

Added in this Supplement

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57-119-5. Gulf Coast Restoration Fund Advisory Board created; purpose; membership.

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57-119-17. Annual report; contents.

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# TITLE 55.

# PARKS AND RECREATION


| | | |
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| Chapter 5. | Federal Parks and National Parkways. ..... | 55-5-1 |
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# CHAPTER 5.

# FEDERAL PARKS AND NATIONAL PARKWAYS

Financial Assistance to National Parks or Other Federal Visitors or Recreation Areas..

## FINANCIAL ASSISTANCE TO NATIONAL PARKS OR OTHER FEDERAL VISITORS OR RECREATION AREAS

Sec.


55-5-101. Special fund created to provide funds to assist paying certain costs of national park or other federal visitors or recreation area if federal funds are unavailable due to federal government shutdown; application for assistance.

55-5-103. Procedure for providing funds for the special fund created in Section 55-5-101.


### § 55-5-101. Special fund created to provide funds to assist paying certain costs of national park or other federal visitors or recreation area if federal funds are unavailable due to federal government shutdown; application for assistance.

(1) There is hereby created in the State Treasury a special fund which shall consist of funds deposited therein under Section 55-5-103 and funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used for the purposes provided in this section.

(2) The MDA shall establish a program to make funds available for the purpose of providing funds to assist in paying costs associated with the operation and maintenance of a national park or other federal visitors or recreation area when due to a shutdown of the federal government, federal funds are unavailable and have been unavailable for at least five (5) days for such purposes. Funds made available by the MDA under this section shall be provided on a reimbursable basis and cannot exceed fifty percent (50%) of the amount of funds expended from private, local and/or other sources for the operation and maintenance of a national park or other federal visitors or recreation area located in this state during the time that federal funds are unavailable for such purposes.

(3) An entity desiring assistance under this section must submit an application to the MDA. The application must include a description of the purposes for which the assistance is requested, the amount of funds from private, local and/or other sources that have been expended and/or irrevocably dedicated for such purposes, the amount of assistance requested and any other information required by the MDA.

(4) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this section, and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

**HISTORY: Laws, 2019, ch. 454, § 53, eff from and after passage (approved April 12, 2019).**

## § 55-5-103. Procedure for providing funds for the special fund created in Section 55-5-101.

Upon a determination by the Mississippi Development Authority (hereinafter referred to as "MDA") that due to a shutdown of the federal government, federal funds are unavailable and have been unavailable for at least five (5) days for the operation and maintenance of a national park or other federal visitors or recreation area located in this state, the MDA shall provide notice of such unavailability of funds to the Department of Finance and Administration. Upon receipt of such notice, the Department of Finance and Administration, with the concurrence of the State Bond Commission, may incur debt, including notes or other evidences of indebtedness, for the purpose of providing funds for the special fund created in Section 55-5-101. All notes or certificates of indebtedness issued under this section shall mature in approximately equal installments of principal and interest over a period not to exceed one (1) year from the date of issuance thereof. The maximum amount of debt that may be outstanding under this section at any time shall not exceed One Hundred Thousand Dollars ($100,000.00).

**HISTORY: Laws, 2019, ch. 454, § 54, eff from and after passage (approved April 12, 2019).**

# CHAPTER 15.

# COMMEMORATIVE PARKS AND MONUMENTS

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Alteration of historical monuments and memorials. ..... 55-15-81

## MISSISSIPPI VETERANS MONUMENT COMMISSION

Sec.
55-15-51 through 55-15-62. Repealed.
55-15-63. Repeal of Sections 55-15-51 through 55-15-62.

### § 55-15-51. through 55-15-62. Repealed

Repealed by Section 55-15-63, eff from and after July 1, 2016.

§ 55-15-51. [Laws, 1986, ch. 342, § 1; reenacted without change, Laws, 1998, ch. 474, § 1; reenacted without change, Laws, 2000, ch. 455, § 1; reenacted without change, Laws, 2001, ch. 455, § 1; reenacted without change, Laws, 2002, ch. 480, § 1; reenacted without change, Laws, 2004, ch. 545, § 1; reenacted without change, Laws, 2006, ch. 378, § 1; reenacted without change, Laws, 2010, ch. 472, § 1; reenacted without change, Laws, 2015, ch. 304, § 2, eff from and after July 1, 2015.

§ 55-15-53. [Laws, 1986, ch. 342, § 2; Laws, 1990, ch. 456, § 1; Laws, 1991, ch. 392 § 1; Laws, 1997, ch. 466, § 1; reenacted and amended, Laws, 1998, ch. 474, § 2; reenacted without change, Laws, 2000, ch. 455, § 2; reenacted without change, Laws, 2001, ch. 455, § 2; reenacted and amended, Laws, 2002, ch. 480, § 2; reenacted and amended, Laws, 2004, ch. 545, § 2; reenacted without change, Laws, 2006, ch. 378, § 2; reenacted without change, Laws, 2010, ch. 472, § 2; reenacted without change, Laws, 2015, ch. 304, § 2, eff from and after July 1, 2015.]

§ 55-15-55. [Laws, 1986, ch. 342, § 3; reenacted without change, Laws, 1998, ch. 474, § 3; reenacted without change, Laws, 2000, ch. 455, § 3; reenacted without change, Laws, 2001, ch. 455, § 3; reenacted without change, Laws, 2002, ch. 480, § 3; reenacted and amended, Laws, 2004, ch. 545, § 3; reenacted without change, Laws, 2006, ch. 378, § 3; reenacted without change, Laws, 2010, ch. 472, § 3; reenacted without change, Laws, 2015, ch. 304, § 3, eff from and after July 1, 2015.]

§ 55-15-57. [Laws, 1986, ch. 342, § 4; Laws, 1990, ch 456, § 2; Laws, 1997, ch. 466, § 2; reenacted without change, Laws, 1998, ch. 474, § 4; reenacted without change, Laws, 2000, ch. 455, § 4; reenacted without change, Laws, 2001, ch. 455, § 4; reenacted without change, Laws, 2002, ch. 480, § 4; reenacted without change, Laws, 2004, ch. 545, § 4; reenacted without change, Laws, 2006, ch. 378, § 4; reenacted without change, Laws, 2010, ch. 472, § 4; reenacted without change, Laws, 2015, ch. 304, § 4, eff from and after July 1, 2015.]

§ 55-15-59. [Laws, 1986, ch. 342, § 5; Laws, 1991, ch. 392, § 2; reenacted without change, Laws, 1998, ch. 474, § 5; reenacted without change, Laws, 2000,

ch. 455, § 5; reenacted and amended, Laws, 2001, ch. 455, § 5; reenacted without change, Laws, 2002, ch. 480, § 5; Laws, 2003, ch. 529, § 24; reenacted without change, Laws, 2004, ch. 545, § 5; reenacted without change, Laws, 2006, ch. 378, § 5; reenacted without change, Laws, 2010, ch. 472, § 5; reenacted without change, Laws, 2015, ch. 304, § 5, eff from and after July 1, 2015.]

§ 55-15-61. [Laws, 1990, ch. 422, § 1; reenacted without change, Laws, 1998, ch. 474, § 6; Laws, 2000, ch. 455, § 6; reenacted without change, Laws, 2001, ch. 455, § 6; reenacted without change, Laws, 2002, ch. 480, § 6; reenacted without change, Laws, 2004, ch. 545, § 6; reenacted without change, Laws, 2006, ch. 378, § 6; reenacted and amended, Laws, 2010, ch. 472, § 6; reenacted and amended, Laws, 2015, ch. 304, § 6, eff from and after July 1, 2015.]

§ 55-15-62. [Laws, 2000, ch. 396, § 1; reenacted without change, Laws, 2001, ch. 455, § 7; reenacted without change, Laws, 2002, ch. 480, § 7; reenacted without change, Laws, 2004, ch. 545, § 7; reenacted without change, Laws, 2006, ch. 378, § 7; reenacted without change, Laws, 2010, ch. 472, § 7; reenacted without change, Laws, 2015, ch. 304, § 7, eff from and after July 1, 2015.]

**Editor's Notes —** Former § 55-51-51 provided the legislative findings and determinations regarding the establishment of an appropriate monument to recognize the service of Mississippi veterans.

Former § 55-51-53 created the Mississippi Veterans Monument Commission and provided for its composition, meetings and compensation.

Former § 55-51-55 authorized the Mississippi Veterans Monument Commission to construct and maintain a monument to honor Mississippi veterans.

Former § 55-51-57 provided the general powers and duties of the Mississippi Veterans Monument Commission.

Former § 55-51-59 created the Veterans Monument Trust Fund.

Former § 55-51-61 provided additional powers and duties of the Mississippi Veterans Monument Commission regarding the design, construction and dedication of the Mississippi Confederate memorial and created the Shiloh Confederate Memorial Trust Fund.

Former § 55-51-62 provided additional powers and duties of the Mississippi Veterans Monument Commission regarding the design, construction and dedication of the Congressional Medal of Honor Monument and created the Congressional Medal of Honor Monument Trust Fund.

## § 55-15-63. Repeal of Sections 55-15-51 through 55-15-62.

Sections 55-15-51 through 55-15-62, Mississippi Code of 1972, which create and empower the Mississippi Veterans Monument Commission, are repealed on July 1, 2016.

**HISTORY: Laws, 1997, ch. 466, § 3; Laws, 1998, ch. 474, § 7; Laws, 2000, ch. 455, § 7; Laws, 2001, ch. 455, § 8; Laws, 2002, ch. 480, § 8; Laws, 2004, ch. 545, § 8; Laws, 2006, ch. 378, § 8; Laws, 2010, ch. 472, § 8; Laws, 2015, ch. 304, § 8, eff from and after July 1, 2015.**

**Amendment Notes —** The 2015 amendment extends the date of the repealer for §§ 55-15-51 through 55-15-62 by substituting "July 1, 2016" for "July 1, 2015."

# ALTERATION OF HISTORICAL MONUMENTS AND MEMORIALS

Sec.
55-15-81. Alteration of historical monuments and memorials prohibited; sanctions.

## § 55-15-81. Alteration of historical monuments and memorials prohibited; sanctions.

(1) None of the following items, structures or areas may be relocated, removed, disturbed, altered, renamed or rededicated: Any Revolutionary War, War of 1812, Mexican-American War, War Between the States, Spanish-American War, World War I, World War II, Korean War, Vietnam War, Persian Gulf War, War in Iraq or Native American War's statues, monuments, memorials or nameplates (plaques), which have been erected on public property of the state or any of its political subdivisions, such as local, municipal or county owned public areas, and any statues, monuments, memorials, nameplates (plaques), schools, streets, bridges, buildings, parks preserves, reserves or other public items, structure or areas of the state or any of its political subdivisions, such as, local, municipal or county owned public areas, which have been dedicated in memory of, or named for, any historical military figure, historical military event, military organization or military unit.

(2) No person may prevent the public body responsible for maintaining any of the items, structures or areas described above from taking proper measures and exercising proper means for the protection, preservation, care, repair or restoration of those items, structures or areas. The governing body may move the memorial to a more suitable location if it is determined that the location is more appropriate to displaying the monument.

(3) This section shall not apply to items, structures or areas located on property owned or acquired by the Mississippi Transportation Commission which may interfere with the construction, maintenance or operation of public transportation facilities.

**HISTORY: Laws, 2004, ch. 463, § 1, eff from and after July 1, 2004.**

**Editor's Notes —** This section is being reprinted to correct a publishing error in the main volume. In subsection (1), "Native American War's" was substituted for "Native American Wars."

### JUDICIAL DECISIONS

**1. No private right of action.**

In an action by the members of a Confederate Veterans society against a university for violating Miss. Code Ann. § 55-15-81, the circuit court properly ruled that, despite their argument to the contrary and the nomenclature used, the case was a mandamus action and not one for injunctive relief, denied the members' motion to retransfer to the chancery court, and granted a university's motion to dismiss the action for lack of standing because the members failed to challenge the judgment from the chancery court trans-

ferring the case, the circuit court had jurisdiction under two statutes, and the members had no private right that entitled them to require that the university refrain from implementing its diversity plan. Miss. Div. of Sons of Confederate Veterans v. Univ. of Miss., 269 So. 3d 1235, 2018 Miss. App. LEXIS 425 (Miss. Ct. App. 2018).

# CHAPTER 23.

# MISSISSIPPI VETERANS MEMORIAL STADIUM

## § 55-23-8. Lease of Mississippi Veterans Memorial Stadium property; compliance with existing lease agreements by Jackson State University and University of Mississippi Medical Center.

**Cross References —** Exemption of indebtedness incurred under this section from limitations on indebtedness, see § 21-33-303.

# CHAPTER 24.

# MISSISSIPPI COAST COLISEUM COMMISSION

Sec.
55-24-3. Terms of office.
55-24-7. Organization; meetings; quorum; office supplies.
55-24-9. Powers of the Mississippi Coast Coliseum Commission.
55-24-17. Mississippi Coast Coliseum and Convention Trust Fund established; administration of fund; use of monies.

## § 55-24-3. Terms of office.

(1) The Mississippi Coast Coliseum Commission shall consist of seven (7) members, who shall be appointed, qualify and take office within thirty (30) days of July 1, 2016. Five (5) commissioners shall be appointed by the Harrison County Board of Supervisors, with each member of the board to appoint one (1) person to the commission, who shall be a resident of Harrison County. Each commissioner shall serve at the will and pleasure of the board of supervisors and removed by a majority vote of the board of supervisors. The term of each commissioner shall run concurrently with the member of the board of supervisors who appointed him or her, unless such commissioner is otherwise replaced or removed by a majority vote of the board of supervisors. Two (2) members, one (1) from each judicial district in Harrison County, shall be appointed by consensus of the elected mayors of the municipalities from that judicial district within Harrison County, and such members shall be residents of Harrison County and shall serve at the will and pleasure of such mayors and shall have terms that run concurrently with the term of office of such mayors elected at a general municipal election, unless such commissioners are replaced or removed by such mayors. From and after July 1, 2016, the

Executive Director of the Mississippi Gulf Coast Region Convention and Visitors Bureau shall be an ex officio nonvoting member of the commission.

(2) In addition to the fact that each commissioner serves at the will and pleasure of the appointing elected official(s), as described in subsection (1) of this section, any member may be disqualified and removed from office for any one (1) of the following reasons:

(a) Conviction of a felony;

(b) Failure to attend three (3) consecutive meetings without just cause.

(3) If a commission member is removed for one (1) of the above reasons, the vacancy shall be filled in the manner prescribed in this section.

(4) Vacancies which shall occur shall be filled in the same manner as the original appointments and shall be made for the unexpired term unless the person is otherwise removed, as provided in subsection (1) of this section.

(5) In making appointments to the commission, the appointing authorities should consider persons who are community leaders and/or are representative of fields such as the hotel/motel business, large business, small business, the food and beverage industry and large facility operation or commercial real estate.

**HISTORY: Laws, 1968, ch. 530, § 2; Laws, 1972, ch. 435, § 1; Laws, 2008, ch. 534, § 2; Laws, 2016, ch. 489, § 1, eff from and after July 1, 2016.**

**Amendment Notes —** The 2016 amendment rewrote (1) to increase the membership on the commission from five to seven members and revise the terms of office by removing staggered initial appointments and deleting the provision that succeeding appointments would be for four years; added "In addition to...subsection (1) of this section" at the beginning of the introductory paragraph of (2); rewrote (4), which read: "Vacancies which shall occur shall be filled in the same manner as the original appointments and shall be made for the unexpired term. Any person who is duly qualified on May 2, 1972, shall continue to serve for the duration of the term for which he was appointed"; and deleted the former first sentence of (5), which read: "The five (5) members of the commission who are in office on July 1, 2008, shall continue to serve until their terms expire."

## § 55-24-7. Organization; meetings; quorum; office supplies.

After the members of the Mississippi Coast Coliseum Commission have been appointed and qualified as set forth in Section 55-24-3 et seq., they shall meet, on or before August 19, 2016, at quarters provided for them by Harrison County after giving not less than ten (10) days' notice of the time and place of such meeting by registered mail, postage prepaid and electronic mail directed to each appointed member of such commission as provided to the Secretary of State at the time of his qualification, and posting bond. At such meeting a quorum shall be four (4) commissioners, and a majority of those members attending shall elect a president and secretary, both of whom shall be members of said commission, and adopt such rules and regulations as may govern the time and place for holding subsequent meetings, regular and special, and other rules and regulations not inconsistent with the provisions of this chapter.

The commission is further authorized to obtain office equipment, supplies,

furniture, furnishings, equipment, and other facilities necessary to administer the affairs and duties of the commission.

**HISTORY: Laws, 1968, ch. 530, § 4; Laws, 1972, ch. 435, § 1; Laws, 2008, ch. 534, § 3; Laws, 2016, ch. 489, § 2, eff from and after July 1, 2016.**

**Amendment Notes** — The 2016 amendment, in the first paragraph, in first sentence, substituted "set forth in Section 55-24-3 et seq., they shall meet, on or before August 19, 2016, at quarters" for "set forth herein, they shall meet at quarters," inserted "and electronic mail" and substituted "such commission as provided" for "such commission at his regular address given," and in the second sentence, substituted "four (4) commissioners" for "three (3) commissioners"; and deleted the former last paragraph, which read: "From and after July 1, 2008, the quorum required for commission meetings shall be five (5) members."

## § 55-24-9. Powers of the Mississippi Coast Coliseum Commission.

The Mississippi Coast Coliseum Commission, a political subdivision of the State of Mississippi, shall have jurisdiction and authority over matters relating to promoting, developing, maintaining and operating a multipurpose coliseum and related facilities within Harrison County, Mississippi. Multipurpose coliseum and related facilities shall include a multipurpose coliseum or arena facility, a convention center and facility grounds, as well as any lands purchased by or on the behalf of the commission. From and after July 1, 2016, any development and/or any land acquired by or on behalf of the commission, shall be subject to the Land Development Ordinances of the City of Biloxi. Such commission is authorized to acquire lands by purchase, gift or the exercise of eminent domain as provided by Section 11-27-1 et seq., above or below mean high-water mark subject to the approval of the Harrison County Board of Supervisors. The acquisition of lands below mean high-water mark by the commission for the purposes authorized herein are declared to be in all respects for the benefit of the people of the State of Mississippi, a public purpose, and an essential governmental function in the exercise of the powers conferred upon them by such act.

The commission, acting on behalf of the State of Mississippi, shall have the right to reclaim submerged lands for the purpose of constructing a multipurpose coliseum and related facilities, and to acquire in its name on behalf of the state any estate or property right therein or in other land necessary to the purpose of this chapter by purchase, gift, deed or other transfer, subject to the approval of the Harrison County Board of Supervisors. Title to all oil, gas and other minerals in, on or under any lands, title to which is held by the State of Mississippi on August 8, 1968, shall be reserved unto the State of Mississippi, and all income derived from the sale or lease of such minerals shall inure to the benefit of the State of Mississippi for such purposes as the Legislature may direct. Provided, that prior to utilization of lands in which title vests in the State of Mississippi, a description of such land shall be submitted to the Department of Finance and Administration and said utilization shall not be

commenced until or unless approval of such utilization is given by the Department of Finance and Administration.

The commission is authorized to own, furnish, equip and operate the multipurpose coliseum and facilities and equipment necessary or useful in the operation of such multipurpose coliseum and related facilities; to receive and expend, subject to the provisions of this chapter and the approval of the commission's annual budget by the Harrison County Board of Supervisors, revenues from any source, including the operation of the multipurpose coliseum and related facilities; and to do all other things necessary to carry out the purposes of this chapter.

The commission is authorized and directed to adopt uniform rules and regulations regarding the granting of contracts that are less than one hundred eighty (180) days for franchises, licenses, contracts or lease agreements, or the granting of contracts that are less than one hundred eighty (180) days for the use, operation and maintenance of the premises, and to publish the uniform rules and regulations for three (3) consecutive weeks in a newspaper having a general circulation in the county and fixing a time and place not more than ten (10) days after the last publication to receive and hear objections to such rules and regulations. The commission shall also publish such information on commission and county websites during the same time period as the newspaper publication. In addition, a copy of such rules and regulations or any revisions or amendments thereto shall be filed with the Clerk of the Harrison County Board of Supervisors. The commission may revise or amend such rules and regulations but such revisions shall be uniform and shall not be adopted unless the commission shall publish the proposed change and hold a public hearing as required by this section.

Before any contract that is more than one hundred eighty (180) days for a franchise, license, contract or lease agreement may be granted, the commission shall notify the Harrison County Board of Supervisors and publish its intent to grant such franchise, license, contract or lease agreement and the conditions upon which same shall be granted. Such publication shall be made for three (3) consecutive weeks in a newspaper having a general circulation in Harrison County. Such publication shall also be made on the commission and county websites during the same time period as the newspaper publication. All bids received shall be sealed, and shall be opened at a date, time and place set forth in the publications, which date shall not be less than five (5) days nor more than ten (10) days after the last day of such publications.

Unless the commission shall find that the successful bidder cannot demonstrate financial responsibility to comply with the terms and conditions of the franchise, license, contract or lease agreement or cannot perform the services required thereunder, it shall, subject to the limitations set forth under this chapter, recommend the granting of the franchise, license, contract or lease agreement to the bidder whose proposal shall be in the best financial interest of the commission.

Any person aggrieved by any action of the commission may appeal to the Circuit Court of Harrison County in the manner provided for appeals from orders of the board of supervisors.

The commission is granted the power to sue and be sued in its own name, and the commission is authorized to take liability insurance on the operation of the facilities in an amount equal to the extent of its liability for claims or causes of action arising from acts or omissions as provided in Section 11-46-15; provided, however, that immunity from suit is only waived to the extent of such liability insurance carried, and a judgment creditor shall have recourse only to the proceeds or right to proceeds of such liability insurance. No attempt shall be made in the trial of any case to suggest the existence of any insurance which covers in whole or in part any judgment or award rendered in favor of a claimant, but if the verdict rendered by the jury exceeds the limit of applicable insurance, the court on motion shall reduce the amount of said judgment to a sum equal to the applicable limit stated in the insurance policy.

The commission shall prepare an annual budget specifically describing the proposed receipt and expenditure of all funds from any source whatsoever, and such budget shall be approved by the Harrison County Board of Supervisors. If the commission desires to take any action associated with the receipt or expenditure of funds which deviates from the annual budget, such individual action shall be subject to the approval of the Harrison County Board of Supervisors.

The commission is granted the power to invest funds credited to the Mississippi Coast Coliseum Commission Operating Fund, the commission is vested with authority to designate depositories of its funds, and to deposit the funds in interest-bearing accounts. Provided, however, all funds in excess of ninety (90) days' operating expenses, to the extent practicable, shall be invested in Treasury bills or in interest-bearing accounts or approved securities to include, but not limited to, U.S. Treasury bills and U.S. Treasury notes and bonds, federal agency securities or mortgage-backed securities guaranteed as to repayment of principal by the government or an agency of such government, certificates of deposit fully covered by insurance administered by the Federal Deposit Insurance Corporation or covered by pledged securities, repurchase agreements and short-term money market funds invested in United States government and United States government agencies.

The commission is authorized to contract with any agency of the United States or the State of Mississippi for a loan or grant, subject to the approval of the Harrison County Board of Supervisors and to give such agency any assurances of compliance with federal or state laws which are not in conflict with the laws of the State of Mississippi. It is the intent and purpose of this chapter that the Coliseum Commission cooperate with agencies administering the National Seashore Act of 1970.

Whenever any real or personal property belonging to the commission shall cease to be used or needed for the commission's purposes, the commission may recommend to the Harrison County Board of Supervisors that it sell, exchange or lease the property on such terms as the commission may propose. No lease of surplus real property may exceed a term of ninety-nine (99) years. The deed of conveyance in such transactions shall be executed in the name of the commission by the Harrison County Board of Supervisors pursuant to order

issued on the minutes of its meetings. In any sale, exchange or lease of real property, the commission shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same. Before any sale, exchange or lease is made, the commissioners shall publish at least once each week for three (3) consecutive weeks, in a public newspaper of Harrison County, Mississippi, and on the commission and county websites the intention to sell, exchange or lease, as the case may be, the real or personal property and to accept sealed competitive bids for the sale, exchange or lease. The commissioners shall thereafter accept bids for the sale, exchange or lease, and the property shall be sold, exchanged or leased to the highest and best bidder in the manner provided by law. However, whenever the commissioners shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes: (a) that any commission-owned real property is no longer needed for commission purposes and is not to be used in the operation of a multipurpose coliseum and related facilities, (b) that the sale, exchange or lease of such property in the manner otherwise provided for herein is necessary or desirable for the financial welfare of a multipurpose coliseum and related facilities, and (c) that the use of such property for the purpose for which it is to be sold, exchanged or leased will promote and foster the development and improvement of the multipurpose coliseum and related facilities, the commissioners may recommend to the Harrison County Board of Supervisors that it sell, exchange or lease the property without having to advertise for and accept competitive bids. In any case in which the commission proposes to sell or exchange real property under the provisions of this section without advertising for and accepting competitive bids, the Harrison County Board of Supervisors must approve such proposal, and consideration for the sale or exchange of the real property shall be not less than the average of the fair market price for the property as determined by three (3) professional property appraisers selected by the commission and approved by the purchaser or devisee and the Harrison County Board of Supervisors. Appraisal fees shall be shared equally by the commission and the purchaser or devisee.

The enumeration of any specific rights and powers contained herein or elsewhere in this chapter where followed by general powers shall not be construed in the restrictive sense but rather in as broad and comprehensive sense as possible to effectuate the purposes and intent of this chapter.

**HISTORY: Laws, 1968, ch. 530, § 5; Laws, 1972, ch. 435, § 1; Laws, 1975, ch. 445, § 1; Laws, 1977, ch. 456, § 1; Laws, 1979, ch. 467, § 1; Laws, 1990, ch. 899, § 1; Laws, 1991, ch. 825, § 1; Laws, 2005, ch. 482, § 1; Laws, 2008, ch. 310, § 1; Laws, 2016, ch. 489, § 3, eff from and after July 1, 2016.**

**Amendment Notes** — The 2016 amendment rewrote the section to revise the powers of the commission and to require that certain commission actions be approved by the Harrison County Board of Supervisors.

## § 55-24-17. Mississippi Coast Coliseum and Convention Trust Fund established; administration of fund; use of monies.

(1) The proceeds from the tax authorized under the provisions of Sections 1 and 2 of Chapter 863, Local and Private Laws of 1987, shall be paid to the Mississippi Coast Coliseum and Convention Trust Fund. The fund shall be used for the operational, maintenance, replacement and capital expenses of the Mississippi Coast Coliseum and Convention Center, as hereinafter provided and managed as provided in subsection (2) of this section. Amounts on deposit in the fund shall be invested in interest-bearing accounts or approved securities to include, but not limited to, U.S. Treasury bills and U.S. Treasury notes and bonds, federal agency securities or federal mortgage-backed securities guaranteed as to repayment of principal by the federal government or an agency of the federal government, certificates of deposits fully covered by insurance administered by the Federal Deposit Insurance Corporation or covered by pledge securities, repurchase agreements and short-term money market funds invested in U.S. government and U.S. government agencies. All interest income earned on the fund shall be paid into the Mississippi Coast Coliseum Commission Operating Fund. The principal amount deposited into the fund from the proceeds of the special taxes authorized by Chapter 863, Laws of 1987 shall not be withdrawn from the trust for any purpose whatsoever except as provided for in subsection (2) of this section. The interest earned on the fund may also be used for debt service for capital improvements or expansion or for payment of expenses for operations, maintenance and replacement of capital improvements.

(2) From and after July 1, 2016, the Mississippi Coast Coliseum and Convention Trust Fund shall be administered by the Harrison County Board of Supervisors, and the Harrison County Board of Supervisors may expend monies in the fund upon recommendation of the commission, without state appropriation, for the purpose of repairs, restorations, debt service expense and capital improvements to the Mississippi Coast Coliseum and Convention Center. From and after July 1, 2016, until February 16, 2018, the Harrison County Board of Supervisors shall not expend more than Two Million Dollars ($2,000,000.00) from the Mississippi Coast Coliseum Trust Fund; however, from and after February 16, 2018, the board of supervisors is authorized to expend any or all of the remaining monies in such trust fund upon recommendation of the commission.

**HISTORY: Laws, 1987, ch. 863, § 3; Laws, 1990, ch. 899, § 2; Laws, 2006, ch. 384, § 1; Laws, 2016, ch. 489, § 4, eff from and after July 1, 2016.**

**Amendment Notes** — The 2016 amendment rewrote the section to delete the commission's authorization to utilize the trust fund under certain circumstances to make repairs to the coliseum necessitated by damage from Hurricane Katrina and to provide for the administration of the fund by the Harrison County Board of Supervisors.

# TITLE 57.

# PLANNING, RESEARCH AND DEVELOPMENT


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# CHAPTER 1.

# MISSISSIPPI DEVELOPMENT AUTHORITY


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### § 57-1-3. Mississippi Development Authority seal.

The Mississippi Development Authority shall have an official seal, and all orders, findings, acts and certifications of the department shall be attested by such seal, and by the signature of the executive director; and when so attested, all orders, acts, findings and certifications of the department shall be competent evidence and shall be given full faith and credit in any proceedings of a court in this state.

**HISTORY: Codes, 1942, § 8936; Laws, 1940, ch. 147; Laws, 1944, ch. 241, § 1; Laws, 1950, ch. 190, § 1; Laws, 1952, ch. 171; Laws, 1960, ch. 142; Laws, 1979, ch. 438, § 2; Laws, 1980, ch. 560, § 25; Laws, 1984, ch. 488, §§ 324 and 325; Laws, 1985, ch. 417; Laws, 1986, ch. 500, § 44; Laws, 1988, ch. 466, § 13; Laws, 1988, ch. 518, § 27; Laws, 1989, ch. 544, § 40; Repealed by Laws, 2017, ch. 402, § 11; Laws, 2017, ch. 404, § 1, eff from and after July 1, 2017.**

**Editor's Notes —** Laws of 2017, ch. 402, § 11 repealed this section. However, Laws of 2017, ch. 404, § 1 amended this section as amended by Laws of 2017, ch. 402, § 11. This section is set out as amended by Laws of 2017, ch. 404, § 1.

**Amendment Notes —** The 2017 amendment rewrote the section by substituting "Mississippi Development Authority" for "Department of Economic and Community Development near the beginning, and deleting former (2) and (3), which created an advisory council to the Department of Economic Community Development.

### § 57-1-14. Confidentiality of client information concerning development projects.

(1) Any records of the Mississippi Development Authority which contain client information concerning development projects shall be exempt from the provisions of the Mississippi Public Records Act of 1983 for a period of two (2) years after receipt of the information by the department. Confidential client information as described in this section shall not include the information which must be disclosed by the certified applicant related to a qualified economic development project in the annual report described in Section 57-1-759.

(2) Confidential client information in public records held by the department shall be exempt from the provisions of the Mississippi Public Records Act of 1983 during the period of review and negotiation on a project proposal and for a period of thirty (30) days after approval, disapproval or abandonment of the proposal not to exceed one (1) year by the department in writing.

**HISTORY: Laws, 1989, ch. 524, § 21; Laws, 1990, ch. 502, § 5, eff from and after July 1, 1990; Laws, 2020, ch. 482, § 7, eff from and after July 1, 2020.**

**Amendment Notes.** The 2020 amendment, in (1), substituted "Mississippi Development Authority" for "Department of Economic and Community Development" and added the last sentence.

## § 57-1-16. ACE Fund; creation; qualifications for assistance; rules and regulations.

(1) As used in this section:

(a) "Extraordinary economic development opportunity" means a new or expanded business or industry which maintains a strong financial condition and minimal credit risk and creates substantial employment, particularly in areas of high unemployment.

(b) "Local economic development entities" means state institutions of higher learning or public or private nonprofit local economic development entities including, but not limited to, chambers of commerce, local authorities, commissions or other entities created by local and private legislation or districts created pursuant to Section 19-5-99.

(c) "MDA" means the Mississippi Development Authority.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the ACE Fund, which shall consist of money from any public or private source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. The purpose of the fund shall be to assist in maximizing extraordinary economic development opportunities related to any new or expanded business or industry or to assist a local unit of government as authorized in subsection (5) of this section. Such funds may be used to make grants to local economic development entities to assist any new or expanding business or industry that meets the criteria provided in this section when such assistance aids the consummation of a project within the State of Mississippi, or to make grants to a local unit of government as authorized in subsection (5) of this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA for the administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued.

Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a grant program to make grants from the ACE Fund created under this section. Local economic development entities may apply to the MDA for a grant under this section in the manner provided for in subsection (4) of this section. Local units of government may apply to the MDA for a grant under this section in the manner provided in subsection (5) of this section.

(4)(a) Any business or industry desiring assistance from a local economic development entity under this section shall submit an application to the local economic development entity which shall include, at a minimum:

(i) Evidence that the business or industry meets the definition of an extraordinary economic development opportunity;

(ii) A demonstration that the business or industry is at an economic disadvantage by locating the new or expanded project in the county;

(iii) A description, including the cost, of the requested assistance;

(iv) A description of the purpose for which the assistance is requested;

(v) A two-year business plan;

(vi) Financial statements or tax returns for the three (3) years immediately prior to the application;

(vii) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the business or industry; and

(viii) Any other information required by the MDA.

(b) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(c) Upon receipt of the application from a business or industry, the local economic development entity may apply to the MDA for assistance under this section. Such application must contain evidence that the business or industry meets the definition of an extraordinary economic development opportunity, a demonstration that the business or industry is at an economic disadvantage by locating the new or expanded project in the county, a description, including the cost, of the requested assistance, and a statement of what efforts have been made or are being made by the business or industry for securing or qualifying for other local, state, federal or private funds for the project.

(d) The MDA shall have sole discretion in the awarding of ACE funds, provided that the business or industry and the local economic development entity have met the statutory requirements of this section. However, in making grants under this section, the MDA shall attempt to provide for an equitable distribution of such grants among each of the congressional districts of this state in order to promote economic development across the entire state.

(5)(a) The MDA may make grants to local units of government to assist the local unit of government in purchasing real property for the benefit of an existing industry that commits to maintain a minimum of one thousand three hundred (1,300) jobs for a minimum of ten (10) years after the date the grant is made.

(b) Any local unit of government seeking a grant authorized under this subsection shall apply to MDA. The application shall contain such information as the MDA may require.

(c) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this subsection and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(6) The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of this section. However, before the implementation of any such rules and regulations, they shall be submitted to a committee consisting of five (5) members of the Senate Finance Committee and five (5) members of the House of Representatives Ways and Means Committee, appointed by the respective committee chairmen.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 4; Laws, 2005, 3rd Ex Sess, ch. 1, § 34; Laws, 2008, ch. 506, § 4; Laws, 2014, ch. 518, § 2, eff from and after July 1, 2014; Laws, 2019, ch. 453, § 1, eff from and after July 1, 2019.**

**Amendment Notes** — The 2019 amendment, in (2)(a), substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing assistance under this section through the use of general obligation bonds" in the first sentence, deleted "for each grant" following "shall be maintained" in the second sentence, in the third sentence, deleted "for a grant" following "necessary costs" and deleted "for such grant" at the end, and deleted the former fourth sentence, which read: "Monies authorized for a particular grant may not be used to reimburse administrative costs for unrelated grants."

## § 57-1-18. Small Municipalities and Limited Population Counties Fund; definitions; creation; grant program; qualifications for assistance; promulgation of rules and regulations; annual report.

(1) For the purposes of this section, the following terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Limited population county" means a county in the State of Mississippi with a population of thirty thousand (30,000) or less according to the most recent federal decennial census at the time the county submits its application to the MDA under this section.

(b) "MDA" means the Mississippi Development Authority.

(c) "Project" means highways, streets and other roadways, bridges, sidewalks, utilities, airfields, airports, acquisition of equipment, acquisition of real property, development of real property, improvements to real property, and any other project approved by the MDA.

(d) "Small municipality" means a municipality in the State of Mississippi with a population of ten thousand (10,000) or less according to the most recent federal decennial census at the time the municipality submits its application to the MDA under this section. The term "small municipality" also includes a municipal historical hamlet as defined in Section 17-27-5.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the "Small Municipalities and Limited Population Counties Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used to make grants to small municipalities and limited population counties or natural gas districts created by law and contained therein to assist in completing projects under this section.

(b) Monies in the fund which are derived from proceeds of bonds issued under Sections 1 through 16 of Chapter 538, Laws of 2002, Sections 1 through 16 of Chapter 508, Laws of 2003, Sections 55 through 70 of Chapter 1, Laws of 2004 Third Extraordinary Session, Sections 1 through 16 of Chapter 482, Laws of 2006, Section 15 of Chapter 580, Laws of 2007, Section 1 of Chapter 503, Laws of 2008, Section 42 of Chapter 557, Laws of 2009, Section 38 of Chapter 533, Laws of 2010, Section 41 of Chapter 480, Laws of 2011, Section 30 of Chapter 569, Laws of 2013, Section 4 of Chapter 530, Laws of 2014, Section 11 of Chapter 472, Laws of 2015, Section 19 of Chapter 511, Laws of 2016, Section 5 of Chapter 452, Laws of 2018, Section 19 of Chapter 454, Laws of 2019, or Section 11 of Chapter 492, Laws of 2020, may be used to reimburse reasonable actual and necessary costs incurred by the MDA for the administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a grant program to make grants to small municipalities and limited population counties from the Small Municipalities and Limited Population Counties Fund. Grants made under this section to a small municipality or a limited population county shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00) during any grant period established by the MDA. A small municipality or limited population county may apply to the MDA for a grant under this section in the manner provided for in this section.

(4) A small municipality or limited population county desiring assistance under this section must submit an application to the MDA. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the MDA.

(5) The MDA shall have all powers necessary to implement and administer the program established under this section, and the department shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(6) The MDA shall file an annual report with the Governor, the Secretary of the Senate and the Clerk of the House of Representatives not later than December 1 of each year, describing all assistance provided under this section.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 57; Laws, 2002, ch. 538, § 17; Laws, 2003, ch. 508, § 17; Laws, 2004, 3rd Ex Sess., ch. 1, § 71; Laws, 2006, ch. 482, § 17; Laws, 2007, ch. 580, § 16; Laws, 2008, ch. 503, § 2; Laws, 2009, ch. 557, § 43; Laws, 2010, ch. 533, § 39; Laws, 2011, ch. 390, § 2; Laws, 2011, ch. 480, § 42; Laws, 2013, ch. 569, § 31; Laws, 2014, ch. 530, § 5; Laws, 2015, ch. 472, § 12; Laws, 2016, ch. 511, § 20, eff from and after July 1, 2016; Laws, 2018, ch. 452, § 6, eff from and after July 1, 2018; Laws, 2019, ch. 453, § 2, eff from and after July 1, 2019; Laws, 2019, ch. 454, § 20, eff from and after passage (approved April 12, 2019); Laws, 2020, ch. 492, § 12, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Joint Legislative Committee Note —** Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in paragraph (2)(b) of this section by deleting "or" preceding "Section 19 of Chapter 511, Laws of 2016." The Joint Committee ratified the correction at the August 14, 2018, meeting of the Committee.

Section 2 of Chapter 453, Laws of 2019, effective July 1, 2019 (approved April 12, 2019), amended this section. Section 20 of Chapter 454, Laws of 2019, effective upon passage (approved April 12, 2019), also amended this section. As set out above, this section reflects the language of Section 20 of Chapter 454, Laws of 2019, which contains language that specifically provides that it supersedes § 57-1-18 as amended by Chapter 453, Laws of 2019.

**Amendment Notes —** The 2015 amendment inserted "or Section 11 of Chapter 472, Laws of 2015" in (2)(b).

The 2016 amendment inserted "or Section 19 of Chapter 511, Laws of 2016" in (2)(b).

The 2018 amendment inserted "or Section 5 of Chapter 452, Laws of 2018" in (2)(b).

The first 2019 amendment (ch. 453), in (2)(b), substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing assistance related to a project for which funding is provided under this section from the use of proceeds of such bonds" in the first sentence, deleted "for each project" following "shall be maintained" in the second sentence and following "necessary costs" in the third sentence, and deleted the former next-to-last sentence, which read: "Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects."

The second 2019 amendment (ch. 454), effective April 12, 2019, in (2)(b), inserted "or Section 19 of Chapter 454, Laws of 2019" and made a related change, substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing assistance related to a project for which funding is provided under this section from the use of proceeds of such bonds" in the first sentence, deleted "for each project" following "shall be maintained" in the second

sentence and following "necessary costs" in the third sentence, and deleted the former next-to-last sentence, which read: "Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects."

The 2020 amendment, effective July 9, 2020, in (2)(b), inserted "or Section 11 of Chapter 492, Laws of 2020," and made a related change.

## § 57-1-55. General powers and duties of Department of Economic and Community Development.

**Editor's Notes —** Laws of 2019, ch. 393, § 1 provides:

"SECTION 1. (1) The Mississippi Development Authority is authorized to sell, lease or otherwise dispose of, in whole or in part, in a manner as determined in the sole discretion of the authority, the following described real property and any improvements thereon:

[For a complete description of the property, see Section 1 of Chapter 393, Laws of 2019.]

"(2) The Mississippi Development authority may pay the cost of title search, perfection of title, title insurance, legal fees and recording fees and other costs as may be required to sell, lease or otherwise dispose of the property.

"(3) In the event that any or all of the real property and improvements described in subsection (1) of this section is sold, the real property shall be sold for not less than the current fair market value as determined by the average of two (2) appraisals by qualified appraisers, one of whom shall be selected by the Department of Finance and Administration, and both of whom shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

"(4) Any proceeds from the sale of the land, and any improvements thereon, listed in subsection (1) of this section, shall be deposited into the state land acquisition fund.

"(5) The Department of Finance and Administration may correct any discrepancies in the legal description of the property provided in this section."

## § 57-1-64.1 Mississippi Tourism Association Marketing Advisory Board created; composition.

(1) There is hereby created a Mississippi Tourism Association Marketing Advisory Board to assist the Mississippi Development Authority in the planning of initiatives for advertising and promoting tourism in Mississippi.

(2) The advisory board shall be composed of the following members:

(a) The Executive Director of the Mississippi Tourism Association;

(b) The members of the Mississippi Tourism Association Board of Directors, composed through the bylaws of the Mississippi Tourism Association as being geographically and ethnically diverse members from the five (5) tourism regions designated as the Hills, the Delta, the Capital/River, the Pines and the Coastal regions of Mississippi, and three (3) at-large members;

(c) Three (3) at-large members appointed by the Governor;

(d) One (1) at-large member appointed by the Lieutenant Governor; and

(e) One (1) at-large member appointed by the Speaker of the House of Representatives.

(3) Members of the advisory board may not be compensated for the performance of their duties.

(4) The advisory board will give input and advice to the Mississippi Development Authority's Tourism Division on marketing and advertising

planning, but shall have no executive powers at the Mississippi Development Authority.

(5) For marketing activities paid for with federal funds related to the COVID-19 public health emergency and carried out by either the Mississippi Development Authority's Tourism Division or destination marketing organizations, the advisory board will give input on appropriate branding and messaging that communicates pertinent public health information. The advisory board shall convene for the purposes of this subsection within fifteen (15) calendar days of July 9, 2020.

**HISTORY: Laws, 2019, ch. 447, § 1, eff from and after July 1, 2019; Laws, 2020, ch. 490, § 5, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Amendment Notes —** The 2020 amendment, effective July 9, 2020, in (2), added (c) through (e), and made related changes; and added (5).

## MISSISSIPPI INDUSTRY INCENTIVE FINANCING REVOLVING FUND

Sec.
57-1-221. Mississippi Industry Incentive Financing Revolving Fund created; use of funds; application for grant or loan.

### § 57-1-221. Mississippi Industry Incentive Financing Revolving Fund created; use of funds; application for grant or loan.

(1) As used in this section:

(a) "Approved business enterprise" means any project that:

(i) Locates or expands in this state and creates a minimum of two hundred fifty (250) new, full-time jobs with a total capital investment in the state of a minimum of Thirty Million Dollars ($30,000,000.00) in Tier 1 or Tier 2 counties;

(ii) Locates or expands in this state and creates a minimum of one hundred fifty (150) new, full-time jobs with a total capital investment in the state of a minimum of Fifteen Million Dollars ($15,000,000.00) in areas federally designated as low-income census tracts;

(iii) Locates or expands in this state and creates a minimum of one thousand (1,000) new, full-time jobs;

(iv) Is a manufacturer of high-end kitchen appliances having at least four hundred (400) employees working at its Mississippi facilities on January 1, 2015, and with a capital investment of at least Five Million Dollars ($5,000,000.00) made after July 1, 2014, through four (4) years after July 1, 2015, that expands in this state, and retains a minimum of four hundred (400) jobs; or

(v) Locates or expands in this state with significant regional impact as determined by MDA.

(b) "MDA" means the Mississippi Development Authority.

(c) "Facility related to the project" means and includes any of the following, as they may pertain to the project:

(i) Facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project;

(ii) Building facilities and equipment necessary to operate the facility;

(iii) Rail lines;

(iv) Airports, airfields, air terminals and port facilities;

(v) Highways, streets and other roadways; and

(vi) Fire protection facilities, equipment and elevated water tanks.

(d) "Project" means any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise that is approved by the MDA.

(2)(a) There is created a special fund in the State Treasury to be known as the Mississippi Industry Incentive Financing Revolving Fund which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Except as otherwise provided, monies in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (3) of this section. The Mississippi Development Authority shall allocate and disburse Thirty Million Dollars ($30,000,000.00) from the fund as a grant to Mississippi State University for the construction, furnishing and equipping of a high-performance computing data center that is home to federally designated centers of computing excellence. The disbursement of such funds shall not be subject to any requirements of this section relating to grants and loans made by the Mississippi Development Authority under this section.

(b) Monies in the fund that are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA for the administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a program to make grants or loans from the Mississippi Industry Incentive Financing Revolving Fund to local governments, including, but not limited to, counties, municipalities, industrial development authorities and economic development districts, and approved business enterprises to construct or otherwise provide facilities related to the

project. Local governments are authorized to accept grants and enter into loans authorized under the program, and to sell, lease or otherwise dispose of a project or any property related to the project in whole or in part.

(4)(a) Except as otherwise provided in this section, any business enterprise or local government desiring a grant or loan under this section shall submit an application to the MDA which shall include, at a minimum:

(i) Evidence that the business or industry meets the definition of an approved business enterprise;

(ii) A description, including the cost, of the requested assistance;

(iii) A description of the purpose for which the assistance is requested; and

(iv) Any other information required by the MDA.

(b) Except as otherwise provided in this section, the MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(c) Upon receipt of the application from a business enterprise or local government for a grant or loan under this section, the MDA shall determine whether the enterprise meets the definition of an approved business enterprise and determine whether to provide the assistance requested in the form of a grant or a loan.

(d) Except as otherwise provided in subsection (2)(a) of this section, the MDA shall have sole discretion in providing grants or loans under this section. The terms of a grant or loan provided under this section and the manner of repayment of any loan shall be within the discretion of the MDA. Repayments of loans made under this section shall be deposited to the credit of the Mississippi Industry Incentive Financing Revolving Fund until the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00). Once the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00), repayments of loans under this section shall be deposited to the credit of Fund No. 3951 in the State Treasury to pay debt service on bonds until such time as the uncommitted balance in the fund falls below Fifty Million Dollars ($50,000,000.00).

(e) The MDA shall notify the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee of the approval of any grant or loan application thirty (30) days prior to the disbursement of any monies for the loan or grant from the Mississippi Industry Incentive Financing Revolving Fund. The notification shall identify the applicant and the purposes for which the loan or grant is made.

(5)(a) Contracts, by local governments, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project shall be exempt from the provisions of Section 31-7-13 if:

(i) The MDA finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be

in the public interest or would less effectively achieve the purposes of this section to enter into such contracts on the basis of Section 31-7-13; and

(ii) The approved business enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(6) It is the policy of the MDA and the MDA is authorized to accommodate and support any enterprise that receives a loan under this section for a project defined in Section 17-25-23 that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this subsection.

(7) The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of this section.

**HISTORY: Laws, 2010, ch. 533, § 24; Laws, 2011, ch. 301, § 3; Laws, 2011, ch. 480, § 23; Laws, 2011 1st Ex Sess, ch. 1, § 2; Laws, 2013, ch. 569, § 41; Laws, 2016, ch. 511, § 75, eff from and after July 1, 2016; Laws, 2019, ch. 453, § 3, eff from and after July 1, 2019; Laws, 2020, ch. 492, § 14, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Amendment Notes —** The 2016 amendment added (1)(a)(iv), redesignated former (1)(a)(iv) as (1)(a)(v), and made a related change.

The 2019 amendment, in (2)(a), substituted "monies" and "Monies" for "money" and "Money"; in (2)(b), in the first sentence, substituted "Monies" for "Money" and made a related grammatical change, and substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing grants or loans under this section through the use of general obligation bonds," deleted "for each grant or loan" following "shall be maintained" in the second sentence, and in the third sentence, deleted "for assistance" following "necessary costs" and deleted "for such assistance" at the end.

The 2020 amendment, effective July 9, 2020, in (2)(a), in the third sentence, added "Except as otherwise provided" at the beginning, and added the last two sentences; and in (4), added "Except as otherwise provided in this section" at the beginning of (a) and (b), and added "Except as otherwise provided in subsection (2)(a) of this section" at the beginning of (d).

# LOCAL GOVERNMENTS CAPITAL IMPROVEMENTS REVOLVING LOAN PROGRAM

Sec.
57-1-303. Local Governments Capital Improvements Revolving Loan Fund; loan program; pledge for repayment of loan by county or municipality; audit of county or municipality where loan payments in arrears; applicability of debt limitations; renegotiation of certain loans [Subsection (1)(a)(ii) repealed effective July 1, 2022].

## § 57-1-303. Local Governments Capital Improvements Revolving Loan Fund; loan program; pledge for repayment of loan by county or municipality; audit of county or municipality where loan payments in arrears; applicability of debt limitations; renegotiation of certain loans [Subsection (1)(a)(ii) repealed effective July 1, 2022].

(1)(a)(i) There is created a special fund in the State Treasury to be designated as the "Local Governments Capital Improvements Revolving Loan Fund," which fund shall consist of such monies as provided in Sections 57-1-307 through 57-1-335. The fund shall be maintained in perpetuity for the purposes established in Sections 57-1-301 through 57-1-335. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may not be used or expended for any purpose except as authorized under Sections 57-1-301 through 57-1-335.

(ii) Monies in the Local Governments Capital Improvements Revolving Loan Fund which are derived from interest on loan payments received by the Mississippi Development Authority after January 1, 2002, for loans funded with proceeds of bonds whose interest is not exempt from income taxation under the provisions of the Internal Revenue Code may be used by the Mississippi Development Authority for the ordinary and necessary general support of the Mississippi Development Authority. However, such monies may not be used for the purpose of providing salary increases for Mississippi Development Authority employees. The Mississippi Development Authority may escalate its budget and expend such monies in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. This subparagraph (ii) shall be repealed from and after July 1, 2022.

(b) The Local Governments Capital Improvements Revolving Loan Fund shall be divided into the Taxable Local Governments Capital Improvements Revolving Loan Subaccount and the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount. Funds allocated to the

Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount shall be utilized to provide loans for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code. Funds allocated to the Taxable Local Governments Capital Improvements Revolving Loan Subaccount shall be utilized to provide loans for any eligible capital improvements, including, but not limited to, capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code.

(c) Of the funds deposited into the Local Governments Capital Improvements Revolving Loan Fund, not less than Twenty-five Million Dollars ($25,000,000.00) shall be allocated to the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount, and the remainder of such funds shall be allocated to the Taxable Local Governments Capital Improvements Revolving Loan Subaccount.

(2) A county or an incorporated municipality may apply to the Mississippi Development Authority for a loan under the local governments capital improvements revolving loan program established under Sections 57-1-301 through 57-1-335.

(3)(a) The Mississippi Development Authority shall establish a loan program by which loans, at the rate of interest provided for in paragraph (b) of this subsection, may be made available to counties and incorporated municipalities to assist counties and incorporated municipalities in making capital improvements. Loans from the revolving fund may be made to counties and municipalities as set forth in a loan agreement in amounts not to exceed one hundred percent (100%) of eligible project costs as established by the Mississippi Development Authority. The Mississippi Development Authority may require county or municipal participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving fund. The Mississippi Development Authority may establish a maximum amount for any loan in order to provide for broad and equitable participation in the program and loans for projects described in Section 57-1-301(1)(m) shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00) per project.

(b)(i) Except as otherwise provided in this paragraph (b), the rate of interest on loans made from the Local Governments Capital Improvements Revolving Loan Fund for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code shall be at the rate of three percent (3%) per annum, calculated according to the actuarial method. The rate of interest on loans for all other capital improvements shall be at the true interest cost on the most recent issue of twenty-year state general obligation bonds occurring prior to the date such loan is made.

(ii) The rate of interest on loans made after April 9, 2002, from the Local Governments Capital Improvements Revolving Loan Fund for

capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code shall be at the rate of the lesser of two percent (2%) per annum, calculated according to the actuarial method, or the true interest cost on the most recent issue of state general obligation bonds occurring prior to the date such loan is made. The rate of interest on loans made after April 9, 2002, for all other capital improvements shall be at the rate of three percent (3%) per annum, calculated according to the actuarial method.

(iii) Notwithstanding the provisions of this paragraph to the contrary, loans made for the purposes of the capital project described in Section 57-1-301(2)(l) shall bear no interest.

(4) A county that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments, or (iii) other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(5) The State Auditor, upon request of the Mississippi Development Authority, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Mississippi Development Authority.

(6) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

(7) There is created a special fund in the State Treasury to be designated as the "Local Governments Brownfields Redevelopment Grant Fund." The fund shall consist of those monies as provided in Section 57-1-307. Unexpended amounts remaining in the fund at the end of the fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may not be used or expended for any purpose except as authorized in this section. From and after July 1, 2009, the Local Governments Brownfields Redevelopment Grant Fund is abolished and all money in the fund shall be transferred to the Local Governments Capital Improvements Revolving Loan Fund.

(8) The Mississippi Development Authority may, on a case-by-case basis, renegotiate the payment of principal and interest on loans made under Sections 57-1-301 through 57-1-335 to the six (6) most southern counties of the state covered by the Presidential Declaration of Major Disaster for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005, and to political subdivisions located in such counties; however, the interest on the loans shall not be forgiven for a period of more than twenty-four (24) months and the maturity of the loans shall not be extended for a period of more than forty-eight (48) months.

**HISTORY: Laws, 1994, ch. 570, § 2; Laws, 1995, ch. 415, § 1; Laws, 1997, ch. 534, § 2; Laws, 2002, ch. 548, § 2; Laws, 2005, ch. 349, § 1; Laws, 2005, ch. 497, § 5; Laws, 2006, ch. 545, § 6; Laws, 2007, ch. 388, § 1; Laws, 2009, ch. 557, § 13; Laws, 2010, ch. 458, § 1; Laws, 2015, ch. 346, § 1, eff from and after July 1, 2015; Laws, 2019, ch. 348, § 1, eff from and after July 1, 2019.**

**Amendment Notes —** The 2015 amendment extended the date of the repealer for (1)(a)(ii) from "July 1, 2015" to "July 1, 2019."

The 2019 amendment extended the date of the repealer for (1)(a)(ii) by substituting "July 1, 2022" for "July 1, 2019" at the end of (1)(a)(ii).

## MISSISSIPPI ALTERNATIVE FUEL SCHOOL BUS AND MUNICIPAL MOTOR VEHICLE REVOLVING LOAN FUND

Sec.
57-1-421. Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund created; purpose; use of funds.

### § 57-1-421. Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund created; purpose; use of funds.

(1) As used in this subsection:

(a) "Alternative fuel" means compressed natural gas and liquefied natural gas, as defined in Section 27-59-3, and propane fuel when used as a fuel in a motor vehicle or motor vehicles on the highways of the state.

(b) "Alternative fuel school bus" means a school bus propelled by alternative fuel either as a dedicated alternative fuel vehicle, as a bi-fuel vehicle using alternative fuel as one of its fuels, or as a dual-fuel vehicle using alternative fuel as one of its fuels.

(c) "Conversion kit" means the fuel system equipment necessary in order to retrofit a motor vehicle propelled by gasoline, diesel or other fuel so that the motor vehicle may be converted or modified into an alternative fuel motor vehicle.

(d) "Cost of qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) The actual cost per school bus paid by the school district for the purchase and installation of qualified alternative fuel motor vehicle fuel property described in paragraph (l)(i) of this subsection.

(ii) The incremental cost per school bus paid by the school district upon the purchase of an OEM alternative fuel school bus for the qualified alternative fuel motor vehicle fuel property (including installation) described in paragraph (l)(ii) of this subsection.

(iii) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (l)(iii) of this subsection and its installation.

(iv) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (l)(iv) of this subsection and its construction and installation. The cost directly related to a refueling station shall not include costs associated with exploration and development activities necessary for severing natural resources from the soil or ground.

(e) "Fuel system equipment" means tanks, pumps, hoses, injectors, electronic controls and related supplies, materials, parts and components for the storage of alternative fuel as fuel for an alternative fuel school bus, the delivery of alternative fuel to the engine of an alternative fuel school bus, and the exhaust from an alternative fuel school bus of gases from combustion of alternative fuel used to propel an alternative fuel school bus, excluding equipment necessary for operation of a school bus on gasoline, diesel or any fuel other than alternative fuel.

(f) "Incremental cost" means:

(i) The stated MSRP of the fuel system equipment and its installation for an OEM alternative fuel school bus; or

(ii) If no separate MSRP is stated, the difference between the MSRP of the OEM alternative fuel school bus and the MSRP of the same make and model of school bus manufactured without the fuel system equipment but otherwise identically equipped.

When an OEM alternative fuel school bus is sold for less (or more) than its MSRP, the amount determined in subparagraph (i) or (ii) of this paragraph (f) shall be proportionately reduced (or increased) by the same percentage as the discount (or premium) on the MSRP, as applicable.

(g) "School district" means a public school district.

(h) "OEM alternative fuel motor vehicle" means an alternative fuel school bus manufactured by the original vehicle manufacturer (or its contractor) with the fuel system equipment installed as original equipment by the manufacturer (or its contractor) at the factory or at another installation site approved by the manufacturer (or its contractor).

(i) "Motor vehicle" shall have the meaning ascribed to such term in Section 27-59-3.

(j) "MSRP" means manufacturer's suggested retail price.

(k) "Original purchase" means the purchase directly from a dealer at retail of a new OEM alternative fuel school bus which has never been titled.

(*l*) "Qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) A conversion kit which has not previously been used to retrofit any motor vehicle and is installed and results in a reduction in emissions.

(ii) The fuel system equipment on an OEM alternative fuel school bus which results in a reduction in emissions.

(iii) A refueling system installed at a governmental entity location for the nonpublic refueling with alternative fuel of the governmental entity's alternative fuel school buses.

(iv) A refueling station located in the state and operated by a school district for refueling of alternative fuel motor vehicles owned by the school district.

(v) Upgrades to a refueling system included in subparagraphs (iii) and (iv) of this paragraph (l).

(vi) Portable or mobile refueling systems.

(m) "Reduction in emissions" means a reduction in atmospheric emissions from fuel consumption by an alternative fuel motor vehicle as demonstrated by certification of the fuel system equipment by the federal Environmental Protection Agency or the Mississippi Department of Environmental Quality or any other test or standard recognized by the Mississippi Department of Environmental Quality.

(n) "Refueling system" means compressors (whether used separately or in combination with cascade tanks), process piping, hoses, dispensing units at the point where alternative fuel is delivered as a fuel, meters and other parts and equipment and installation supplies and materials therefor that constitute a refueling system capable of dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles for use as a fuel.

(o) "Refueling station" means property constituting a facility operated for dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles, which shall include:

(i) A refueling system; and

(ii) A building or other structural components constructed or installed as part of and directly related to such refueling system.

(p) "Retrofit" means the installation of a conversion kit in a school bus designed to operate on gasoline, diesel or other fuel in order to convert or modify the bus vehicle into an alternative fuel school bus.

(q) "School bus" means a vehicle owned by a school district that is primarily used by the school district to transport students.

(2) As used in this subsection:

(a) "Alternative fuel" means compressed natural gas and liquefied natural gas, as defined in Section 27-59-3, and propane fuel when used as a fuel in a motor vehicle or motor vehicles on the highways of the state.

(b) "Conversion kit" means the fuel system equipment necessary in order to retrofit a motor vehicle propelled by gasoline, diesel or other fuel so that the motor vehicle may be converted or modified into an alternative fuel motor vehicle.

(c) "Cost of qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) The actual cost per vehicle paid by the municipality for the purchase and installation of qualified alternative fuel motor vehicle fuel property described in paragraph (l)(i) of this subsection.

(ii) The incremental cost per vehicle paid by the municipality upon the purchase of an OEM alternative fuel motor vehicle for the qualified alternative fuel motor vehicle fuel property (including installation) described in paragraph (l)(ii) of this subsection.

(iii) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (l)(iii) of this subsection and its installation.

(iv) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (l)(iv) of this subsection and its construction and installation. The cost directly related to a refueling station shall not include costs associated with exploration and development activities necessary for severing natural resources from the soil or ground.

(d) "Fuel system equipment" means tanks, pumps, hoses, injectors, electronic controls and related supplies, materials, parts and components for the storage of alternative fuel as fuel for an alternative fuel motor vehicle, the delivery of alternative fuel to the engine of an alternative fuel motor vehicle, and the exhaust from an alternative fuel motor vehicle of gases from combustion of alternative fuel used to propel an alternative fuel motor vehicle, excluding equipment necessary for operation of a motor vehicle on gasoline, diesel or any fuel other than alternative fuel.

(e) "Incremental cost" means:

(i) The stated MSRP of the fuel system equipment and its installation for an OEM alternative fuel motor vehicle; or

(ii) If no separate MSRP is stated, the difference between the MSRP of the OEM alternative fuel motor vehicle and the MSRP of the same make and model of motor vehicle manufactured without the fuel system equipment but otherwise identically equipped.

When an OEM alternative fuel motor vehicle is sold for less (or more) than its MSRP, the amount determined in subparagraph (i) or (ii) of this paragraph (e) shall be proportionately reduced (or increased) by the same percentage as the discount (or premium) on the MSRP, as applicable.

(f) "Municipality" means an incorporated city, town or village in the State of Mississippi.

(g) "OEM alternative fuel motor vehicle" means an alternative fuel motor vehicle manufactured by the original vehicle manufacturer (or its contractor) with the fuel system equipment installed as original equipment by the manufacturer (or its contractor) at the factory or at another installation site approved by the manufacturer (or its contractor).

(h) "Motor vehicle" shall have the meaning ascribed to such term in Section 27-59-3.

(i) "MSRP" means manufacturer's suggested retail price.

(j) "Alternative fuel motor vehicle" means a motor vehicle propelled by alternative fuel either as a dedicated alternative fuel vehicle, as a bi-fuel vehicle using alternative fuel as one of its fuels, or as a dual fuel vehicle using alternative fuel as one of its fuels.

(k) "Original purchase" means the purchase directly from a dealer at

retail of a new OEM alternative fuel motor vehicle which has never been titled.

(*l*) "Qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) A conversion kit which has not previously been used to retrofit any motor vehicle and is installed and results in a reduction in emissions.

(ii) The fuel system equipment on an OEM alternative fuel motor vehicle which results in a reduction in emissions.

(iii) A refueling system installed at a municipality location for the nonpublic refueling with alternative fuel of the municipality's alternative fuel motor vehicles.

(iv) A refueling station located in the state and operated by a municipality for refueling of alternative fuel motor vehicles owned by the municipality.

(v) Upgrades to a refueling system included in subparagraphs (iii) and (iv) of this paragraph (l).

(vi) Portable or mobile refueling systems.

(m) "Reduction in emissions" means a reduction in atmospheric emissions from fuel consumption by an alternative fuel motor vehicle as demonstrated by certification of the fuel system equipment by the federal Environmental Protection Agency or the Mississippi Department of Environmental Quality or any other test or standard recognized by the Mississippi Department of Environmental Quality.

(n) "Refueling system" means compressors (whether used separately or in combination with cascade tanks), process piping, hoses, dispensing units at the point where alternative fuel is delivered as a fuel, meters and other parts and equipment and installation supplies and materials therefor that constitute a refueling system capable of dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles for use as a fuel.

(o) "Refueling station" means property constituting a facility operated for dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles, which shall include:

(i) A refueling system; and

(ii) A building or other structural components constructed or installed as part of and directly related to such refueling system.

(p) "Retrofit" means the installation of a conversion kit in a motor vehicle designed to operate on gasoline, diesel or other fuel in order to convert or modify such motor vehicle into an alternative fuel motor vehicle.

(3)(a) The Mississippi Development Authority shall establish a revolving loan program to provide loans to (i) school districts for the purpose of assisting school districts with paying the cost of qualified alternative fuel motor vehicle fuel property and (ii) municipalities for the purpose of assisting municipalities with paying the cost of qualified alternative fuel motor vehicle fuel property. Loans made under this section shall bear no interest.

(b) A school district or municipality desiring a loan under this section

must submit an application to the Mississippi Development Authority. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the loan requested; and

(iii) Any other information required by the Mississippi Development Authority.

(c) Repayments of loans made under this section shall be deposited to the credit of the Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund.

(4)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Mississippi Development Authority for the purposes described in this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority for the administration of the various grant, loan and financial incentive programs administered by the authority. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(5) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this section, and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

**HISTORY: Laws, 2013, ch. 535, § 1, eff from and after July 1, 2013; Laws, 2019, ch. 453, § 4, eff from and after July 1, 2019.**

**Amendment Notes —** The 2019 amendment, in (4)(b), substituted "for the administration of the various grant, loan and financial incentive programs administered by the authority" for "in providing loans under this section through the use of general obligation bonds" in the first sentence, and deleted the former second sentence, which read: "Monies authorized for a particular loan may not be used to reimburse administrative costs for unrelated loans."

## MISSISSIPPI AIR SERVICE DEVELOPMENT PROGRAM

Sec.

57-1-471. Mississippi Air Service Development Program Fund created; purpose; use of funds.

## § 57-1-471. Mississippi Air Service Development Program Fund created; purpose; use of funds.

(1) This section shall be known and may be cited as the "Mississippi Air Service Development Program Act."

(2) There is created in the State Treasury a fund designated as the "Mississippi Air Service Development Program Fund" referred to in this section as "fund."

(3)(a) The fund shall be used to provide grants to commercial service airports, as provided in this section, for one or more of the following air service development goals:

(i) Adding air service to a new destination;

(ii) Adding frequencies to current services;

(iii) Lowering fares/introducing new competitive service;

(iv) Upgauging aircraft; and

(v) Adding a new Federal Aviation Administration (FAA) Part 121 commercial air carrier.

(b) Eligible projects for grants shall include marketing and advertising of new service and routes and additional frequencies, as well as other risk abatement plans; however, use of grant funds to purchase airline passenger seats is prohibited.

(4)(a) The fund shall be administered by the Mississippi Development Authority which shall promulgate reasonable regulations consistent with the purposes of this section.

(b) The Mississippi Development Authority shall monitor and evaluate the Air Service Development Program and shall also report its evaluation of the program to the Governor, Lieutenant Governor and the Speaker of the House on an annual basis.

(5)(a) Airline grant recipients shall be limited to scheduled air carriers that hold a Federal Aviation Administration (FAA) Part 121 Certificate and that provide scheduled air service at Mississippi airports that maintain FAA Part 139 Certification. An airport grant recipient shall only utilize grant funds in accordance with FAA regulation.

(b) The amount of a grant shall be based on a formula of Ten Dollars ($10.00) per seat per day calculation, not to exceed an annual total of Five Hundred Thousand Dollars ($500,000.00) per grant per FAA Part 139 airport. In no instance will a combination of airline or airport grants exceed a combined total of Five Hundred Thousand Dollars ($500,000.00) per year per airport.

(c) Seasonal service is also eligible for grants based on the per seat per day calculation provided in paragraph (b) of this subsection (5). For the purposes of this subsection (5), "seasonal service" means any service flown which lasts less than twelve (12) months and more than two (2) months in length. Multiple seasons may be flown by a particular air carrier within a twelve (12) month period with a gap in service between seasons of not less than two (2) months.

(d)(i) Except as otherwise provided in this section, grants shall be disbursed by the Mississippi Development Authority within twelve (12) consecutive months as follows:

1. Thirty-five percent (35%) at the end of the first three (3) months of service;

2. Twenty-five percent (25%) at the end of the second three (3) months of service;

3. Twenty-five percent (25%) at the end of the third three (3) months of service; and

4. Fifteen percent (15%) at the end of the fourth three (3) months of service.

(ii) Grants for seasonal service shall be disbursed by the Mississippi Development Authority at the rate of one hundred percent (100%) at the end of the seasonal service.

(e)(i) Each grant shall require a forty percent (40%) match, which may be provided by private sources and/or public sources.

(ii) Of the forty percent (40%) match prescribed under this subsection, only one-half (½) or twenty percent (20%) of the grant may derive from in-kind sources.

(f) All expenditures of the fund by airport or airline grant recipients shall be utilized for the purposes prescribed under subsection (3) of this section.

**HISTORY: Laws, 2014, ch. 460, § 1; Laws, 2017, ch. 333, § 1, eff from and after July 1, 2017.**

**Amendment Notes —** The 2017 amendment, in (5), added (c), and redesignated the remaining paragraphs accordingly, in (d), added the exception at the beginning of (i), redesignated former (i) through (iv) as 1. through 4., and added (ii), and deleted the former first sentence of (e), which read: "Each grant shall be expended within twelve (12) consecutive months from the date the grant is awarded"; and deleted (6), which read: "This section shall stand repealed from and after July 1, 2018."

## ECONOMIC DEVELOPMENT AND INFRASTRUCTURE FUND

Sec.
57-1-501. Economic Development and Infrastructure Fund created; purpose; use of funds.

### § 57-1-501. Economic Development and Infrastructure Fund created; purpose; use of funds.

(1) There is created in the State Treasury a special fund to be designated as the "Economic Development and Infrastructure Fund." The special fund shall consist of monies deposited into the fund from any source that is designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and

any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Mississippi Development Authority for the purposes authorized in subsection (2) of this section.

(2)(a) The Mississippi Development Authority shall establish a program to provide grants (i) to assist with construction and repair of infrastructure in counties in this state where legal gaming is being conducted or is authorized and for structures designed to promote the gaming and entertainment industry in such counties, and (ii) to aid in increasing commercial air service at existing commercial service airports in counties in this state in which legal gaming is being conducted or is authorized by offering to assist Part 121 carriers through the following air service development methods: revenue guaranty, seat guaranty, seat cost mitigation, ground handling and marketing.

(b) The Mississippi Development Authority shall establish a procedure for accepting and reviewing applications for grants under this section.

(c) If funds are available in the fund created under this section, not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) shall be used annually for grants provided for under paragraph (a)(ii) of this subsection (2). Thereafter, the funds may be used for grants provided for under paragraph (a)(i) of this subsection (2).

(3) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this section, and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

**HISTORY: Laws, 2016, ch. 497, § 1, eff from and after July 1, 2016.**

## MISSISSIPPI MAIN STREET INVESTMENT GRANT FUND

Sec.

57-1-601. Mississippi Main Street Investment Grant Fund program created; purposes; applications by municipalities for loans; awarding of loans by Mississippi Development Authority.

### § 57-1-601. Mississippi Main Street Investment Grant Fund program created; purposes; applications by municipalities for loans; awarding of loans by Mississippi Development Authority.

(1) For the purposes of this section, the following words shall have the following meanings ascribed in this section, unless the context clearly otherwise requires:

(a) "MDA" means the Mississippi Development Authority.

(b) "Municipality" means the City of Senatobia, Mississippi.

(c) "Revitalization zone" means an area in the municipality officially designated by ordinance or resolution of the governing authorities of the

municipality as a revitalization zone and approved and certified by the MDA as meeting the requirements of this section.

(2)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Main Street Investment Grant Fund" which shall consist of funds from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the MDA for the purposes authorized in subsection (3) of this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants under this section through the use of proceeds of such general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for the program. Reimbursement of reasonable actual and necessary costs for assistance shall not exceed three percent (3%) of the proceeds of bonds issued for such assistance. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a program to make grants to the municipality to assist with maintaining and improving the viability of revitalization zones. The proceeds of a grant made to the municipality under this section may be used for maintaining and/or improving the viability of a revitalization zone through means deemed appropriate by the governing authorities of the municipality, including, but not limited to, making loans, grants and/or other forms of assistance to any person or public or private association or other entity for use for infrastructure projects, improvements to properties, signage and other purposes related to maintaining and/or improving the viability of the revitalization zone.

(4)(a) If the municipality desires a grant under this section, the municipality shall submit an application to the MDA seeking (i) approval and certification of the proposed revitalization zone and (ii) a grant for the purposes authorized in this section. The application shall include, at a minimum:

1. The name of the proposed revitalization zone, together with the words, "revitalization zone";

2. A description of the revitalization zone by metes and bounds;

3. A map showing the parcels of real property included in the revitalization zone and the present use of such parcels;

4. A master plan for the revitalization zone that has been approved by sixty percent (60%) of the property owners within the zone at the time the municipality submits the application; and

5. Any other information required by the MDA. The governing authorities of the municipality may designate the boundaries of a proposed revitalization zone by adoption of an ordinance or resolution that is spread upon its minutes and describes the boundaries of the zone.

(b) The MDA shall review the application to confirm that the revitalization zone meets the requirements of this section. A revitalization zone may embrace two (2) or more separate parcels of real property, and such property may be publicly and/or privately owned. Each revitalization zone shall be of such size and form as to include all properties that, in the determination of the municipality and the MDA, constitute an integral part of the revitalization zone. If the MDA determines that the boundaries of the proposed revitalization zone exceed the area that is reasonably deemed to be integral to the revitalization zone, the MDA may reduce the boundaries of the proposed area.

Upon the approval and selection of a municipal revitalization zone project, the MDA shall certify the revitalization zone.

(5) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

**HISTORY: Laws, 2016, ch. 511, § 23, eff from and after July 1, 2016; Laws, 2019, ch. 453, § 5, eff from and after passage (approved April 12, 2019); Laws, 2019, ch. 454, § 51, eff from and after passage (approved April 12, 2019).**

**Joint Legislative Committee Note —** Section 5 of Chapter 453, Laws of 2019, effective from and after passage (approved at 9:24 a.m. on April 12, 2019), amended this section. Section 51 of Chapter 454, Laws of 2019, effective from and after passage (approved at 9:31 a.m. on April 12, 2019), also amended this section. As set out above, this section reflects the language of Section 51 of Chapter 454, Laws of 2019, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective date and the approval date of the amendments are the same, the amendment with the latest approval time supersedes all other amendments to the same section approved on an earlier date and time.

**Editor's Notes —** Laws of 2019, ch. 453, § 14, provides:

"SECTION 14. Section 5 of this act shall take effect and be in force from and after its passage [approved April 12, 2019], and the remaining sections of this act shall take effect and be in force from and after July 1, 2019."

**Amendment Notes —** The first 2019 amendment (ch. 453), effective April 12, 2019, in (2)(b), substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing loans under this section through the use of proceeds of such general obligation bonds" in the first sentence, deleted "for the program" at the end of the second sentence, and in the third sentence, deleted "for assistance" following "necessary costs" and "for such assistance" at the end.

The second 2019 amendment (ch. 454), effective April 12, 2019, rewrote (1)(b), which read: "'Municipality' means any municipality with a population of less than fifteen thousand (15,000) according to the latest federal decennial census at the time the municipality submits an application to the MDA under this section"; substituted "Grant Fund" for "Revolving Loan Fund" in (2)(a); substituted "grants" and "grant" for "loans" and "loan" in (2)(b), (3) and (4)(a)(ii); substituted "the municipality to assist" for "municipalities to assist" in (3); in (4), substituted "If the municipality desires a grant under this section, the municipality shall" for "A municipality desiring a loan under this section shall" in the introductory paragraph of (a), deleted "which shall include the name of the municipality in which the revitalization zone is to be located" following "zone" in (a)1, deleted the former first two sentences of (c), which read: "The MDA shall

establish a deadline for the submitting of applications during a state fiscal year. Upon expiration of the application deadline, the MDA shall review and evaluate all completed applications and approve and select no more than two (2) municipal revitalization zone projects in the state during each state fiscal year," and deleted (d), which read: "Repayments of loans made under this section shall be deposited to the credit of the Mississippi Main Street Investment Revolving Loan Fund."

## MISSISSIPPI SITE DEVELOPMENT GRANT FUND

Sec.
57-1-701. Mississippi Site Development Grant Fund created; definitions; use of funds; application; annual report.

### § 57-1-701. Mississippi Site Development Grant Fund created; definitions; use of funds; application; annual report.

(1) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this subsection unless the context clearly indicates otherwise:

(a) "Eligible entity" means any (i) county, (ii) municipality or (iii) public or private nonprofit local economic development entity including, but not limited to, local authorities, commissions, or other entities created by local and private legislation or pursuant to Section 19-5-99.

(b) "Eligible expenditures" means:

(i) Fees for architects, engineers, environmental consultants, attorneys, and such other advisors, consultants and agents that MDA determines are necessary to complete site due diligence associated with site development improvements located on industrial property that is publicly owned; and/or

(ii) Contributions toward site development improvements, as approved by MDA, located on industrial property that is publicly owned.

(c) "MDA" means the Mississippi Development Authority.

(d) "Site development improvements" means site clearing, grading, and environmental mitigation; improvements to drainage systems; easement and right-of-way acquisition; sewer systems; transportation directly affecting the site, including roads, bridges or rail; bulkheads; land reclamation; water supply (storage, treatment and distribution); aesthetic improvements; the dredging of channels and basins; or other improvements as approved by MDA.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the "Mississippi Site Development Grant Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used to make grants to assist eligible entities as provided in this section.

(b) Monies in the fund which are derived from proceeds of bonds issued under Section 2 of Chapter 390, Laws of 2017, Section 5 of Chapter 412, Laws of 2018, Section 1 of Chapter 421, Laws of 2019, or Section 4 of Chapter 492, Laws of 2020, may be used to reimburse reasonable actual and necessary costs incurred by MDA for the administration of the various grant, loan and financial incentive programs administered by MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements under this subsection shall satisfy any applicable federal tax law requirements.

(3)(a) MDA shall establish a program to make grants to eligible entities to match local or other funds associated with improving the marketability of publicly owned industrial property for industrial economic development purposes and other property improvements as approved by MDA. An eligible entity may apply to MDA for a grant under this program in the manner provided for in this section. An eligible entity desiring assistance under this section must provide matching funds in an amount determined by MDA. Matching funds may be provided in the form of cash and/or in-kind services as determined by MDA.

(b) An eligible entity desiring assistance under this section must submit an application to MDA. The application must include:

(i) A description of the eligible expenditures for which assistance is requested;

(ii) The amount of assistance requested;

(iii) The amount and type of matching funds to be provided by the eligible entity; and

(iv) Any other information required by MDA.

(c) Upon request by MDA, an eligible entity shall provide MDA with access to all studies, reports, documents and/or plans developed as a result of or related to an eligible entity receiving assistance under this section.

(4) MDA shall have all powers necessary to implement and administer the program established under this section, and the department shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(5) MDA shall file an annual report with the Governor, the Secretary of the Senate and the Clerk of the House of Representatives not later than December 1 of each year, describing all assistance provided under this section.

**HISTORY: Laws, 2017, ch. 390, § 1, eff from and after July 1, 2017; Laws, 2018, ch. 412, § 6, eff from and after July 1, 2018; Laws, 2019, ch. 421, § 2, eff from and after July 1, 2019; Laws, 2019, ch. 453, § 6, eff from and after July 1, 2019; Laws, 2020, ch. 492, § 5, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Joint Legislative Committee Note —** Section 2 of Chapter 421, Laws of 2019, effective July 1, 2019 (approved March 28, 2019), amended this section. Section 6 of Chapter 453, Laws of 2019, effective July 1, 2019 (approved April 12, 2019), also

amended this section. As set out above, this section reflects the language of Section 6 of Chapter 453, Laws of 2019, which contains language that specifically provides that it supersedes § 57-1-701 as amended by Chapter 421 Laws of 2019.

**Amendment Notes —** The 2018 amendment inserted "or Section 5 of Chapter 412, Laws of 2018" in (2)(b).

The first 2019 amendment (ch. 421), in (2)(b), inserted "Section 1 of Chapter 421, Laws of 2019," and made a related change.

The second 2019 amendment (ch. 453), in the first sentence of (2)(b), inserted "or Section 1 of Chapter 421, Laws of 2019" and substituted "for the administration of the various grant, loan and financial incentive programs administered by MDA" for "in providing assistance related to a project for which funding is provided under this section from the use of proceeds of such bonds"; in the second sentence of (2)(b), deleted "for each project" following "shall be maintained"; in the third sentence of (2)(b), deleted "for a project" following "necessary costs" and deleted "for such project" at the end; and deleted the former fourth sentence of (2)(b), which read: "Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects."

The 2020 amendment, effective July 9, 2020, in (2)(b), inserted "or Section 4 of Chapter 492, Laws of 2020" and made a related change.

## MISSISSIPPI PORTS IMPROVEMENT FUND

Sec.

57-1-731. Mississippi Ports Improvements Fund created; purpose; source and use of monies; accounting and reimbursement of certain costs; establishment of grant program; application; Ports Improvements Fund Advisory Committee created; composition.

### § 57-1-731. Mississippi Ports Improvements Fund created; purpose; source and use of monies; accounting and reimbursement of certain costs; establishment of grant program; application; Ports Improvements Fund Advisory Committee created; composition.

(1)(a) There is created a special fund in the State Treasury to be known as the Mississippi Ports Improvements Fund which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be disbursed by the Mississippi Development Authority (MDA) for the purposes authorized in subsection (2) of this section.

(b) Monies in the fund that are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants under this section using general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant by the MDA. Reimbursement of reasonable actual and necessary costs for assistance shall not exceed two percent (2%) of the proceeds of bonds issued for such

assistance. Reimbursements made under this paragraph shall satisfy any applicable federal tax law requirements.

(2) The MDA shall establish a program to make grants from the Mississippi Ports Improvements Fund to assist in paying a portion of the costs associated with the repair, rehabilitation, construction, reconstruction, upgrading and improvement of existing port facilities, including projects necessary to ensure safety and structural integrity of such facilities.

(3)(a) An entity desiring a grant under this section shall submit an application to the MDA which shall include, at a minimum:

(i) A description, including the cost, of the requested assistance;

(ii) A description of the purpose for which the assistance is requested; and

(iii) Any other information required by the MDA.

(b) There is hereby created the Ports Improvements Fund Advisory Committee whose membership shall consist of:

(i) Six (6) directors of ports, appointed by the President of the Mississippi Ports Council, or his or her designee, as follows: two (2) directors of the coastal ports, two (2) directors of inland river ports located on the Mississippi River and two (2) directors of inland ports located on the Tennessee-Tombigbee Waterway; and

(ii) The Executive Director of the MDA, or his or her designee.

(c) The MDA, in consultation with the Ports Improvements Fund Advisory Committee, shall provide grants under this section. The terms of a grant shall be within the discretion of the MDA.

(4) The MDA shall have all powers necessary to implement and administer the program established under this section, including the establishing of requirements for matching funds and criteria regarding the evaluation of applications for assistance. The MDA shall promulgate rules and regulations, in accordance with the Administrative Procedures Law, necessary for the implementation and administration of this section.

**HISTORY: Laws, 2019, ch. 414, § 1, eff from and after July 1, 2019.**

## INCENTIVES TRANSPARENCY FOR A PROSPEROUS MISSISSIPPI ACT

Sec.

57-1-751. Short title.
57-1-753. Definitions.
57-1-755. Initial requirements.
57-1-757. Performance measures.
57-1-759. Annual report.
57-1-761. Limitations.

### § 57-1-751. Short title.

Sections 57-1-751 through 57-1-761 shall be known and may be cited as the "Incentives Transparency for a Prosperous Mississippi Act."

**HISTORY: Laws, 2020, ch. 482, § 1, eff from and after July 1, 2020.**

**Editor's Notes —** Laws of 2020, ch. 482, § 8, provides:
"SECTION 8. Sections 1 through 6 of this act shall be codified in Title 57, Chapter 1, Mississippi Code of 1972."

## § 57-1-753. Definitions.

For purposes of Sections 57-1-753 through 57-1-761, the following words shall have the meanings ascribed herein unless the context otherwise requires:

(a) "Certified applicant" or "applicant" means any privately owned corporation, partnership, company or other for-profit business enterprise or any individual receiving one or more economic incentives worth, in total, in excess of Five Million Dollars ($5,000,000.00).

(b) "Economic incentive" or "incentive" means any grants and/or loans awarded by the department to the certified applicant, and in exchange the certified applicant agrees to take some action that contributes to economic development.

(c) "Qualified economic development project" means a business or other economic development project receiving one or more economic incentives worth, in total, in excess of Five Million Dollars ($5,000,000.00).

(d) "Full-time employee" means an individual who is employed for consideration for an average of at least thirty-five (35) hours each week or who renders any other standard of service generally accepted by custom or specified by contract as full- time employment.

(e) "Part-time employee" means an individual who is employed for consideration for an average of less than thirty-five (35) hours each week or who renders any other standard of service generally accepted by custom or specified by contract as part- time employment.

(f) "Employee of a temporary employment agency" means an individual who is hired by a temporary employment agency providing temporary or contract jobs, where the individual performing the work is either an independent contractor or an employee of the temporary employment agency, rather than an employee of the certified applicant or qualified economic development project receiving an economic incentive.

(g) "New employee" means a full-time employee first employed by a certified applicant after the applicant enters into an agreement to receive the economic incentive.

(h) "Annual report" means the report described in Section 57-1-759.

**HISTORY: Laws, 2020, ch. 482, § 2, eff from and after July 1, 2020.**

## § 57-1-755. Initial requirements.

(1) The awarding of an economic incentive to a certified applicant is contingent on a finding by the department that the applicant's qualified economic development project, including, but not limited to, the retention, expansion or location of the applicant's business is clearly in the best interests

of this state. This finding shall be contained in a resolution adopted by the department. The resolution shall set forth the evidence and reasons supporting this finding, including, but not limited to:

(a) Supporting evidence such as a feasibility study, market trends or other data demonstrating that the qualified economic development project will reach the department's stated goal of the economic incentive;

(b) The general impact the qualified economic development project will have on the statewide and local economy and community;

(c) The number of full-time, part-time or temporary jobs the qualified economic development project is expected to bring in to the statewide economy;

(d) Information on direct and indirect public and private costs of the qualified economic development project; and

(e) Negative effects from the qualified economic development project, and the assumptions on which the information is based.

(2) The department shall share the resolution and supporting evidence described in this section with the University Research Center and, upon request, with the Governor, Speaker of the House and President of the Senate.

**HISTORY: Laws, 2020, ch. 482, § 3, eff from and after July 1, 2020.**

## § 57-1-757. Performance measures.

(1) A certified applicant awarded an economic incentive shall enter into a memorandum of understanding with the state through the department. The memorandum shall contain performance measures, determined by the department, that the applicant's qualified economic development project is expected to meet within a specified period of time determined by the department after the incentive is awarded. The performance measures shall align with the department's resolution and supporting evidence for the certified applicant's qualified economic development project as described in Section 57-1-755. The memorandum shall contain provisions allowing the state, through the department or the State Auditor's office, to stop, readjust or recapture all or part of the economic incentive given to the applicant on noncompliance with the terms of the memorandum.

(2) A certified applicant that fails to meet performance measures as described in this section may not receive or be awarded an economic incentive from the department for a period of five (5) years from the date of the notice of default by the department, or until a recipient either cures such default in accordance with the agreement prescribed in subsection (1) of this section, or satisfies the repayment of the economic incentive, whichever occurs first. For purposes of this subsection (2), if the applicant is an individual, the disqualification attaches to the individual, and if the applicant is a business entity, the disqualification attaches to the entity and to each owner or shareholder of twenty percent (20%) or more of the business.

**HISTORY: Laws, 2020, ch. 482, § 4, eff from and after July 1, 2020.**

## § 57-1-759. Annual report.

(1) On or before March 1 of each year, a certified applicant shall file an annual report with the department for any qualified economic development project for the tax year ending during the immediately preceding calendar year, referred to in this paragraph as "the report year," containing the following information:

(a) The name and county of operation of the recipient;

(b) The amount of the economic incentive awarded to the certified applicant;

(c) The purpose of the economic incentive;

(d) The number of full-time employees, part-time employees and employees of a temporary employment agency that the certified applicant agreed to hire, retain or train when the economic incentive was awarded;

(e) The amount of the investment the certified applicant expects to make in the state as a result of the qualified economic development project;

(f) The number of all full-time employees, part-time employees and employees of a temporary employment agency employed by the certified applicant and based in the state on the last day of the report year;

(g) The incremental amount of qualified investment made in the report year;

(h) The average and median wages of all additional full-time employees and part-time employees above the certified applicant's base level of employment in the state whose jobs were added since the first day of the first tax year in which the economic incentive was awarded;

(i) The percentage and number of all additional full-time employees and part-time employees above the certified applicant's base level of employment who have access to retirement benefits and health benefits; and

(j) The number of Mississippi-based companies included in the certified applicant's supply chain.

(2) The department may prescribe forms for the annual report.

(3) By October 1 of each year, the executive director of the department shall file a report with the Governor, the Speaker of the House, the President of the Senate, the Joint Legislative Budget Committee and the members of the committees in the Mississippi House and Senate having jurisdiction over taxation matters, containing data on employment levels, wages and other information described in this section and reported by certified applicants to the department, for each year that the applicant received an economic incentive. In addition to the data on individual qualified economic development projects, the report shall contain the following aggregate information:

(a) The total amount of incentives approved or awarded;

(b) The total amount of loans made by the department;

(c) The total amount of grants awarded by the department;

(d) A description of standard terms for each loan program;

(e) A list of projects that have met contractual requirements and have been closed out by the department.

(4) The Department of Revenue shall provide the department with the tax information required to be included in this report.

**HISTORY: Laws, 2020, ch. 482, § 5, eff from and after July 1, 2020.**

## § 57-1-761. Limitations.

Sections 57-1-753 through 57-1-761 shall apply only to certified applicants for economic incentives awarded by the department after July 1, 2020. Applicants awarded economic incentives prior to July 1, 2020, may file the applicable information voluntarily.

**HISTORY: Laws, 2020, ch. 482, § 6, eff from and after July 1, 2020.**

# CHAPTER 10.

# SMALL BUSINESS ASSISTANCE

Article 11. Bonds to Finance Economic Development Projects. ..... 57-10-401
Article 17. Small Business and Grocer Investment Act. ..... 57-10-701

# ARTICLE 11.

# BONDS TO FINANCE ECONOMIC DEVELOPMENT PROJECTS.

Sec.
57-10-411. Certification of company's state income tax liability and amount of tax credits [Repealed effective October 1, 2022].
57-10-449. Repeal of Sections 57-10-401 through 57-10-445 and 27-7-22.3.

## § 57-10-401. Definitions [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 1; Laws, 1994, ch. 525, § 2; reenacted without change, Laws, 1997, ch. 576, § 1; Laws, 1998, ch. 397, § 1; reenacted without change, Laws, 2000, ch. 425, § 1; reenacted without change, Laws, 2001, ch. 337, § 1; reenacted without change, Laws, 2005, ch. 399, § 1; Laws, 2005, 3rd Ex Sess, ch. 1, § 68; reenacted without change, Laws, 2007, ch. 389, § 1; reenacted without change, Laws, 2011, ch. 519, § 1; Laws, 2014, ch. 454, § 1; reenacted without change, Laws, 2015, ch. 398, § 1; reenacted without change, Laws, 2017, ch. 325, § 1, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 1, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-403. Legislative findings and declarations [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 2; reenacted without change, Laws, 1997, ch.**

**576, § 2; reenacted without change, Laws, 2000, ch. 425, § 2; reenacted without change, Laws, 2001, ch. 337, § 2; reenacted without change, Laws, 2005, ch. 399, § 2; reenacted without change, Laws, 2007, ch. 389, § 2; reenacted without change, Laws, 2011, ch. 519, § 2; reenacted without change, Laws, 2015, ch. 398, § 2; reenacted without change, Laws, 2017, ch. 325, § 2, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 2, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-405. General powers and duties of corporation [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 3; reenacted without change, Laws, 1997, ch. 576, § 3; reenacted without change, Laws, 2000, ch. 425, § 3; reenacted without change, Laws, 2001, ch. 337, § 3; reenacted without change, Laws, 2005, ch. 399, § 3; reenacted without change, Laws, 2007, ch. 389, § 3; reenacted without change, Laws, 2011, ch. 519, § 3; reenacted without change, Laws, 2015, ch. 398, § 3; reenacted without change, Laws, 2017, ch. 325, § 3, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 3, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-407. Power of corporation to accept and expend monies [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 4; reenacted without change, Laws, 1997, ch. 576, § 4; reenacted without change, Laws, 2000, ch. 425, § 4; reenacted without change, Laws, 2001, ch. 337, § 4; reenacted without change, Laws, 2005, ch. 399, § 4; reenacted without change, Laws, 2007, ch. 389, § 4; reenacted without change, Laws, 2011, ch. 519, § 4; reenacted without change, Laws, 2015, ch. 398, § 4; reenacted without change, Laws, 2017, ch. 325, § 4, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 4, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-409. Financing agreements [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 5; Laws, 1994, ch. 340, § 3; Laws, 1994, ch.**

**525, § 3; Laws, 1997, ch. 576, § 5; reenacted without change, Laws, 2000, ch. 425, § 5; reenacted without change, Laws, 2001, ch. 337, § 5; reenacted without change, Laws, 2005, ch. 399, § 5; reenacted without change, Laws, 2007, ch. 389, § 5; reenacted without change, Laws, 2011, ch. 519, § 5; reenacted without change, Laws, 2015, ch. 398, § 5; reenacted without change, Laws, 2017, ch. 325, § 5, eff from and after July 1, 2017.**

**Editor's Notes** — This section was reenacted without change by Laws of 2017, ch. 325, § 5, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2015 amendment reenacted the section without change.

The 2017 amendment reenacted the section without change.

## § 57-10-411. Certification of company's state income tax liability and amount of tax credits [Repealed effective October 1, 2022].

Ninety (90) days after the filing of the tax return of the approved company, the Department of Revenue shall certify to the corporation the state income tax liability for the preceding year of each approved company with respect to an economic development project financed under Sections 57-10-401 through 57-10-445, and the amounts of any tax credits taken under Sections 57-10-401 through 57-10-445.

**HISTORY: Laws, 1993, ch. 565, § 6; reenacted without change, Laws, 1997, ch. 576, § 6; reenacted without change, Laws, 2000, ch. 425, § 6; reenacted without change, Laws, 2001, ch. 337, § 6; reenacted without change, Laws, 2005, ch. 399, § 6; reenacted without change, Laws, 2007, ch. 389, § 6; reenacted without change, Laws, 2011, ch. 519, § 6; reenacted and amended, Laws, 2015, ch. 398, § 6; reenacted without change, Laws, 2017, ch. 325, § 6, eff from and after July 1, 2017.**

**Amendment Notes** — The 2015 amendment reenacted and amended the section and substituted "Department of Revenue" for "State Tax Commission" in the first sentence.

The 2017 amendment reenacted the section without change.

## § 57-10-413. Job development assessment fee [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 7; Laws, 1994, ch. 525, § 4; Laws, 1997, ch. 576, § 7; reenacted without change, Laws, 2000, ch. 425, § 7; reenacted without change, Laws, 2001, ch. 337, § 7; reenacted without change, Laws, 2005, ch. 399, § 7; reenacted without change, Laws, 2007, ch. 389, § 7; reenacted without change, Laws, 2011, ch. 519, § 7; reenacted without change, Laws, 2015, ch. 398, § 7; reenacted without change, Laws, 2017, ch. 325, § 7, eff from and after July 1, 2017.**

**Editor's Notes** — This section was reenacted without change by Laws of 2017, ch. 325, § 7, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-415. Payment of revenue bonds; security [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 8; reenacted without change, Laws, 1997, ch. 576, § 8; reenacted without change, Laws, 2000, ch. 425, § 8; reenacted without change, Laws, 2001, ch. 337, § 8; reenacted without change, Laws, 2005, ch. 399, § 8; reenacted without change, Laws, 2007, ch. 389, § 8; reenacted without change, Laws, 2011, ch. 519, § 8; reenacted without change, Laws, 2015, ch. 398, § 8; reenacted without change, Laws, 2017, ch. 325, § 8, eff from and after July 1, 2017.**

**Editor's Notes** — This section was reenacted without change by Laws of 2017, ch. 325, § 8, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-417. Bonds as limited obligation of corporation; personal liability of member or officer of corporate board [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 9; reenacted without change, Laws, 1997, ch. 576, § 9; reenacted without change, Laws, 2000, ch. 425, § 9; reenacted without change, Laws, 2001, ch. 337, § 9; reenacted without change, Laws, 2005, ch. 399, § 9; reenacted without change, Laws, 2007, ch. 389, § 9; reenacted without change, Laws, 2011, ch. 519, § 9; reenacted without change, Laws, 2015, ch. 398, § 9; reenacted without change, Laws, 2017, ch. 325, § 9, eff from and after July 1, 2017.**

**Editor's Notes** — This section was reenacted without change by Laws of 2017, ch. 325, § 9, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-419. Issuance of bonds generally; use of proceeds; interim receipts, temporary certificates, replacement certificates [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 10; reenacted without change, Laws, 1997, ch. 576, § 10; reenacted without change, Laws, 2000, ch. 425, § 10; reenacted without change, Laws, 2001, ch. 337, § 10; reenacted without change, Laws, 2005, ch. 399, § 10; reenacted without change, Laws, 2007, ch. 389, § 10; reenacted without change, Laws, 2011, ch. 519, § 10; reenacted without change, Laws, 2015, ch. 398, § 10; reenacted without change, Laws, 2017, ch. 325, § 10, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 10, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-421. Additional provisions in bond issue resolution [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 11; reenacted without change, Laws, 1997, ch. 576, § 11; reenacted without change, Laws, 2000, ch. 425, § 11; reenacted without change, Laws, 2001, ch. 337, § 11; reenacted without change, Laws, 2005, ch. 399, § 11; reenacted without change, Laws, 2007, ch. 389, § 11; reenacted without change, Laws, 2011, ch. 519, § 11; reenacted without change, Laws, 2015, ch. 398, § 11; reenacted without change, Laws, 2017, ch. 325, § 11, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 11, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-423. Pledge made by corporation; recording of resolution or other instrument [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 12; reenacted without change, Laws, 1997, ch. 576, § 12; reenacted without change, Laws, 2000, ch. 425, § 12; reenacted without change, Laws, 2001, ch. 337, § 12; reenacted without change, Laws, 2005, ch. 399, § 12; reenacted without change, Laws, 2007, ch. 389, § 12; reenacted without change, Laws, 2011, ch. 519, § 12; reenacted without change, Laws, 2015, ch. 398, § 12; reenacted without change, Laws, 2017, ch. 325, § 12, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 12, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-425. Purchase of bonds by corporation [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 13; reenacted without change, Laws, 1997, ch. 576, § 13; reenacted without change, Laws, 2000, ch. 425, § 13; reenacted without change, Laws, 2001, ch. 337, § 13; reenacted without change, Laws, 2005, ch. 399, § 13; reenacted without change, Laws, 2007, ch. 389, § 13; reenacted without change, Laws, 2011, ch. 519, § 13; reenacted without**

**change, Laws, 2015, ch. 398, § 13; reenacted without change, Laws, 2017, ch. 325, § 13, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 13, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-427. Trust indentures [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 14; reenacted without change, Laws, 1997, ch. 576, § 14; reenacted without change, Laws, 2000, ch. 425, § 14; reenacted without change, Laws, 2001, ch. 337, § 14; reenacted without change, Laws, 2005, ch. 399, § 14; reenacted without change, Laws, 2007, ch. 389, § 14; reenacted without change, Laws, 2011, ch. 519, § 14; reenacted without change, Laws, 2015, ch. 398, § 14; reenacted without change, Laws, 2017, ch. 325, § 14, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 14, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-429. Signatures on bonds [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 15; reenacted without change, Laws, 1997, ch. 576, § 15; reenacted without change, Laws, 2000, ch. 425, § 15; reenacted without change, Laws, 2001, ch. 337, § 15; reenacted without change, Laws, 2005, ch. 399, § 15; reenacted without change, Laws, 2007, ch. 389, § 15; reenacted without change, Laws, 2011, ch. 519, § 15; reenacted without change, Laws, 2015, ch. 398, § 15; reenacted without change, Laws, 2017, ch. 325, § 15, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 15, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-431. Establishment of funds and accounts [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 16; reenacted without change, Laws, 1997, ch. 576, § 16; reenacted without change, Laws, 2000, ch. 425, § 16; reenacted without change, Laws, 2001, ch. 337, § 16; reenacted without change, Laws, 2005, ch. 399, § 16; reenacted without change, Laws, 2007, ch. 389, § 16;**

**reenacted without change, Laws, 2011, ch. 519, § 16; reenacted without change, Laws, 2015, ch. 398, § 16; reenacted without change, Laws, 2017, ch. 325, § 16, eff from and after July 1, 2017.**

**Editor's Notes** — This section was reenacted without change by Laws of 2017, ch. 325, § 16, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-433. Contracts with bondholders; securing of moneys held for payment of bonds [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 17; reenacted without change, Laws, 1997, ch. 576, § 17; reenacted without change, Laws, 2000, ch. 425, § 17; reenacted without change, Laws, 2001, ch. 337, § 17; reenacted without change, Laws, 2005, ch. 399, § 17; reenacted without change, Laws, 2007, ch. 389, § 17; reenacted without change, Laws, 2011, ch. 519, § 17; reenacted without change, Laws, 2015, ch. 398, § 17; reenacted without change, Laws, 2017, ch. 325, § 17, eff from and after July 1, 2017.**

**Editor's Notes** — This section was reenacted without change by Laws of 2017, ch. 325, § 17, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-435. Effect of amendments to Sections 57-10-401 through 57-10-445 enacted after July 1, 1993 [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 18; reenacted without change, Laws, 1997, ch. 576, § 18; reenacted without change, Laws, 2000, ch. 425, § 18; reenacted without change, Laws, 2001, ch. 337, § 18; reenacted without change, Laws, 2005, ch. 399, § 18; reenacted without change, Laws, 2007, ch. 389, § 18; reenacted without change, Laws, 2011, ch. 519, § 18; reenacted without change, Laws, 2015, ch. 398, § 18; reenacted without change, Laws, 2017, ch. 325, § 18, eff from and after July 1, 2017.**

**Editor's Notes** — This section was reenacted without change by Laws of 2017, ch. 325, § 18, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes** — The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-437. Payment of expenses of corporation; limitation on liability [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 19; reenacted without change, Laws, 1997, ch. 576, § 19; reenacted without change, Laws, 2000, ch. 425, § 19; reenacted**

**without change, Laws, 2001, ch. 337, § 19; reenacted without change, Laws, 2005, ch. 399, § 19; reenacted without change, Laws, 2007, ch. 389, § 19; reenacted without change, Laws, 2011, ch. 519, § 19; reenacted without change, Laws, 2015, ch. 398, § 19; reenacted without change, Laws, 2017, ch. 325, § 19, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 19, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-439. Exemption from taxation of income, profits, revenues, bonds, mortgages, deeds of trust and other agreements of corporation [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 20; Laws, 1994, ch. 525, § 5; reenacted without change, Laws, 1997, ch. 576, § 20; reenacted without change, Laws, 2000, ch. 425, § 20; reenacted without change, Laws, 2001, ch. 337, § 20; reenacted without change, Laws, 2005, ch. 399, § 20; reenacted without change, Laws, 2007, ch. 389, § 20; Laws, 2010, ch. 449, § 8; reenacted without change, Laws, 2011, ch. 519, § 20; reenacted without change, Laws, 2015, ch. 398, § 20; reenacted without change, Laws, 2017, ch. 325, § 20, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 20, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-441. Investment in bonds; bonds as security for deposits [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 21; reenacted without change, Laws, 1997, ch. 576, § 21; reenacted without change, Laws, 2000, ch. 425, § 21; reenacted without change, Laws, 2001, ch. 337, § 21; reenacted without change, Laws, 2005, ch. 399, § 21; reenacted without change, Laws, 2007, ch. 389, § 21; reenacted without change, Laws, 2011, ch. 519, § 21; reenacted without change, Laws, 2015, ch. 398, § 21; reenacted without change, Laws, 2017, ch. 325, § 21, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 21, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-443. Annual report of corporation [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 22; reenacted without change, Laws, 1997, ch. 576, § 22; reenacted without change, Laws, 2000, ch. 425, § 22; reenacted without change, Laws, 2001, ch. 337, § 22; reenacted without change, Laws, 2005, ch. 399, § 22; reenacted without change, Laws, 2007, ch. 389, § 22; reenacted without change, Laws, 2011, ch. 519, § 22; reenacted without change, Laws, 2015, ch. 398, § 22; reenacted without change, Laws, 2017, ch. 325, § 22, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 22, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-445. Construction of Sections 57-10-401 through 57-10-445 [Repealed effective October 1, 2022].

**HISTORY: Laws, 1993, ch. 565, § 23; reenacted without change, Laws, 1997, ch. 576, § 23; reenacted without change, Laws, 2000, ch. 425, § 23; reenacted without change, Laws, 2001, ch. 337, § 23; reenacted without change, Laws, 2005, ch. 399, § 23; reenacted without change, Laws, 2007, ch. 389, § 23; reenacted without change, Laws, 2011, ch. 519, § 23; reenacted without change, Laws, 2015, ch. 398, § 23; reenacted without change, Laws, 2017, ch. 325, § 23, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 23, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-447. Deriving of pecuniary benefit or income by public official, member of Legislature, or partner or associate or family member of legislator.

**HISTORY: Laws, 1993, ch. 565, § 28; reenacted without change, Laws, 2015, ch. 398, § 24; reenacted without change, Laws, 2017, ch. 325, § 24, eff from and after July 1, 2017.**

**Editor's Notes —** This section was reenacted without change by Laws of 2017, ch. 325, § 24, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not printed in this supplement.

**Amendment Notes —** The 2015 amendment reenacted the section without change. The 2017 amendment reenacted the section without change.

## § 57-10-449. Repeal of Sections 57-10-401 through 57-10-445 and 27-7-22.3.

Sections 57-10-401 through 57-10-445 and 27-7-22.3 shall be repealed from and after October 1, 2022.

**HISTORY: Laws, 1993, ch. 565, § 29; Laws, 1996, ch. 553, § 7; Laws, 1997, ch. 576, § 26; Laws, 2000, ch. 425, § 25; Laws, 2001, ch. 337, § 25; reenacted and amended, Laws, 2005, ch. 399, § 25; Laws, 2007, ch. 389, § 25; Laws, 2011, ch. 519, § 25; Laws, 2015, ch. 398, § 26; Laws, 2017, ch. 325, § 26, eff from and after July 1, 2017.**

**Amendment Notes —** The 2015 amendment extended the date of the repealer for §§ 57-10-401 through 57-10-445 and 27-7-22.3 by substituting "October 1, 2017" for "October 1, 2015."

The 2017 amendment extended the date of the repealer for §§ 57-10-401 through 57-10-445 and 27-7-22.3 by substituting "October 1, 2022" for "October 1, 2017."

# ARTICLE 17.

# SMALL BUSINESS AND GROCER INVESTMENT ACT.

Sec.
57-10-711. Repeal of Sections 57-10-701 through 57-10-709.

## § 57-10-701. Short title [Repealed effective July 1, 2022].

**HISTORY: Laws, 2014, ch. 514, § 1; reenacted without change, Laws, 2016, ch. 502, § 6, eff from and after July 1, 2016, reenacted without change, Laws, 2019, ch. 347, § 1, eff from and after July 1, 2019.**

**Editor's Notes —** This section was reenacted without change by Laws of 2019, ch. 347, § 1, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes —** The 2016 amendment reenacted the section without change.

The 2019 amendment reenacted the section without change.

## § 57-10-703. Legislative intent [Repealed effective July 1, 2022].

**HISTORY: Laws, 2014, ch. 514, § 2; reenacted without change, Laws, 2016, ch. 502, § 7, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 347, § 2, eff from and after July 1, 2019.**

**Editor's Notes —** This section was reenacted without change by Laws of 2019, ch. 347, § 2, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes —** The 2016 amendment reenacted the section without change.

The 2019 amendment reenacted the section without change.

## § 57-10-705. Definitions [Repealed effective July 1, 2022].

**HISTORY: Laws, 2014, ch. 514, § 3; reenacted without change, Laws, 2016, ch. 502, § 8, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 347, § 3, eff from and after July 1, 2019.**

**Editor's Notes —** This section was reenacted without change by Laws of 2019, ch. 347, § 3, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes —** The 2016 amendment reenacted the section without change. The 2019 amendment reenacted the section without change.

## § 57-10-707. Establishment of program to provide grants and loans to food retailers to increase access to healthy foods in underserved communities; public-private partnerships; uses of funds; application for funding [Repealed effective July 1, 2022].

(1) To the extent funds are available, the Mississippi Development Authority, in cooperation with public and private sector partners, is authorized to establish a program modeled on comparable initiatives throughout the nation that provides grants and loans and/or promotes access to healthy food retailers that increase access to fresh fruits and vegetables, in natural and/or frozen form, and other affordable healthy food in underserved communities.

(2) The agency may contract with one or more qualified nonprofit organizations or community development financial institutions to administer the program described in this article through a public-private partnership, to raise matching funds, market the program statewide, evaluate applicants, make award decisions, underwrite loans and monitor compliance and impact. The agency and its partners shall coordinate with complementary nutrition assistance and education programs.

(3) Any funding provided under the program shall be provided on a competitive, one-time basis as appropriate for the eligible project. No state funds shall be directly provided as a source of funding for any food retailer under this program, but may be used by the agency for its administrative duties in carrying out the provisions of this article.

(4)(a) The program may provide technical assistance and/or funding for projects such as:

(i) New construction of healthy food retailers.

(ii) Store renovations, expansion and infrastructure upgrades that improve the availability and quality of fresh produce.

(iii) Farmers' markets and public markets, food cooperatives, mobile markets and delivery projects and distribution projects that enable food retailers in underserved communities to regularly obtain fresh produce.

(iv) Other projects that create or improve healthy food retail outlets that meet the intent of this article as determined by the agency.

(b) Funding made available for projects included in paragraph (a) of this subsection may be used for the following purposes:

(i) Site acquisition and preparation.

(ii) Construction costs.

(iii) Equipment and furnishings.

(iv) Workforce training.

(v) Security.

(vi) Certain predevelopment costs such as market studies and appraisals.

(vii) Working capital for initial inventory and costs.

(5) An applicant for funding may include, but not be limited to, a sole proprietorship, partnership, limited liability company, corporation or cooperative.

(6) In order to be considered for funding, an applicant shall meet the following eligibility criteria:

(a) The project for which the applicant seeks funding shall benefit an underserved community.

(b) The applicant shall demonstrate a meaningful commitment to sell fresh fruits and vegetables, in natural and/or frozen form, according to a measurable standard established by the agency.

(c) The applicant shall not locate the project in an area where it would be directly competing against an existing food retailer.

(7) Applicants shall be evaluated on the following financial criteria in order to determine the funding awarded:

(a) Demonstrated capacity to successfully implement the project, including the applicant's relevant experience and the likelihood that the project will be economically self-sustaining.

(b) The ability of the applicant to repay debt.

(c) The degree to which the project requires an investment of public funding to move forward, create impact or be competitive, and the level of need in the area to be served. Additional factors that will improve or preserve retail access for low-income residents, such as proximity to public transit lines, also may be taken into account.

(d) The degree to which the project will promote sales of fresh produce, particularly Mississippi-grown fruits and vegetables.

(e) The degree to which the project will have a positive economic impact on the underserved community, including, creating or retaining jobs for local residents.

(f) Other criteria that the agency determines to be consistent with the purposes of this article.

(8) The agency shall establish program benchmarks and reporting processes to make certain that the program benefits the communities in the program area. The agency shall likewise establish monitoring and accountability mechanisms for projects receiving grants or loans, such as tracking fruit and vegetable sales data.

(9) The agency shall prepare and submit an annual report to the Legislature on any projects funded and outcome data.

(10) The agency shall establish rules for the implementation of this article.

**HISTORY: Laws, 2014, ch. 514, § 4; reenacted and amended, Laws, 2016, ch. 502, § 9, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 347, § 4, eff from and after July 1, 2019.**

**Amendment Notes —** The 2016 amendment added (6)(c).
The 2019 amendment reenacted the section without change.

## § 57-10-709. Use of funding to leverage other sources of funds [Repealed effective July 1, 2022].

**HISTORY: Laws, 2014, ch. 514, § 5; reenacted without change, Laws, 2016, ch. 502, § 10, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 347, § 5, eff from and after July 1, 2019.**

**Editor's Notes —** This section was reenacted without change by Laws of 2019, ch. 347, § 5, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.
**Amendment Notes —** The 2016 amendment reenacted the section without change.
The 2019 amendment reenacted the section without change.

## § 57-10-711. Repeal of Sections 57-10-701 through 57-10-709.

Sections 57-10-701 through 57-10-709 shall stand repealed on July 1, 2022.

**HISTORY: Laws, 2014, ch. 514, § 6; Laws, 2016, ch. 502, § 11, eff from and after July 1, 2016; Laws, 2019, ch. 347, § 6, eff from and after July 1, 2019.**

**Amendment Notes —** The 2016 amendment extended the date of the repealer for §§ 57-10-701 through 57-10-709 by substituting "July 1, 2019" for "July 1, 2016."
The 2019 amendment extended the date of the repealer for §§ 57-10-701 through 57-10-709 by substituting "July 1, 2022" for "July 1, 2019."

# CHAPTER 19.

# FOOD TECHNOLOGY LABORATORY

Sec.
57-19-15. Repealed.

## § 57-19-15. Repealed.

Repealed by Laws of 2017, ch. 402, § 12, effective July 1, 2017.

§ 57-19-15. [Codes, 1942, § 6699-68; Laws, 1968, ch. 239, § 8, eff from and after passage (approved May 29, 1968).]

**Editor's Notes —** Former § 57-19-15 established the Food Technology Advisory Board.

# CHAPTER 21.

# STATE CHEMICAL LABORATORY

Sec.
57-21-9. Purposes.

## § 57-21-9. Purposes.

The laboratory is established for the following purposes:

(a) To provide analytical chemical and bacteriological services for regulatory control, in cooperation with the Mississippi Department of Agriculture and Commerce, of the quality of feeds, oil-seed meals, fertilizers and economic poisons offered for sale in Mississippi. The State Chemist shall also share responsibility for labeling and standards of such goods with these agencies.

(b) To conduct chemical, bacteriological and physical tests of foods sold in the state, regulating the quality and labeling of such foods.

(c) To conduct chemical and physical tests on petroleum products offered for sale in the state.

(d) To provide chemically oriented consultation, problem-solving services and supporting analytical chemistry for other state organizations and agencies such as the Mississippi Department of Wildlife, Fisheries and Parks, the Mississippi Department of Environmental Quality, the State Geologist, the Board of Health, the Mississippi Development Authority, the University Research Center, the Veterinary Diagnostic Laboratory, the Highway Patrol, the Mississippi Forensics Laboratory, the Mississippi Department of Agriculture and Commerce, the Cooperative Extension Service and the Agricultural and Forestry Experimental Station as funds and resources permit.

(e) To provide chemical consultation, toxicological analyses and scientific services for the solution of problems of individual citizens and firms of the state who are engaged in agricultural or industrial endeavors furthering the economic growth or development of Mississippi.

(f) To conduct research and development programs associated with the discharge of these responsibilities.

(g) To carry out any program or duty which may be authorized or delegated to it by future legislation.

**HISTORY: Codes, 1942, § 6699-105; Laws, 1970, ch. 259, § 5; Laws, 1972, ch. 369, § 13; Laws, 1986, ch. 395, § 14; Laws, 1986, ch. 459, § 34; Laws, 1988, ch. 518, § 59; Laws, 1991, ch. 530, § 8; Laws, 2010, ch. 399, § 2; Laws, 2015, ch. 452, § 12, eff from and after July 1, 2015.**

**Amendment Notes —** The 2015 amendment substituted "Mississippi Forensics Laboratory" for "Mississippi Crime Laboratory" in (d).

**Cross References —** Mississippi Forensics Laboratory, see § 45-1-17.

# CHAPTER 26.

# TOURISM PROJECT INCENTIVE PROGRAM; THEME PARKS, ENTERTAINMENT CENTERS, SCENIC ATTRACTIONS, ETC.

Sec.

57-26-1. Definitions.

Sec.
57-26-5. Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation; cost benefit analysis of project required.

## § 57-26-1. Definitions.

As used in Sections 57-26-1 through 57-26-5, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Approved project costs" means actual costs incurred by an approved participant for land acquisition, construction, engineering, design and other costs approved by the Mississippi Development Authority relating to a tourism project; however, for the purposes of a tourism project described in paragraph (d)(iv) of this section, such costs include only those incurred after January 1, 2011, relating to the hotel portion of the project consisting of facilities used for lodging and common areas in that portion of the project. All costs must be verified by an independent third party approved by the MDA. An approved participant shall pay the costs for the third-party verification of costs. Approved project costs may not increase regardless of the actual costs incurred by the project.

(b) "Approved participant" means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-26-5.

(c) "MDA" means the Mississippi Development Authority.

(d) "Tourism project" shall include any of the following as may be approved by the MDA:

(i) Theme parks, water parks, entertainment parks or outdoor adventure parks, cultural or historical interpretive educational centers or museums, motor speedways, indoor or outdoor entertainment centers or complexes, convention centers, professional sports facilities, spas, attractions created around a natural phenomenon or scenic landscape and marinas open to the public with a minimum private investment of not less than Ten Million Dollars ($10,000,000.00);

(ii) A hotel with a minimum private investment of Forty Million Dollars ($40,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of One Hundred Fifty Thousand Dollars ($150,000.00) per guest room which amount shall be included within the minimum private investment of Forty Million Dollars ($40,000,000.00);

(iii) A public golf course with a minimum private investment of Ten Million Dollars ($10,000,000.00);

(iv) A full service hotel with a minimum private investment of Fifteen Million Dollars ($15,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a

minimum private investment of Two Hundred Thousand Dollars ($200,000.00) per guest room or suite which amount shall be included within the minimum private investment of Fifteen Million Dollars ($15,000,000.00), a minimum of twenty-five (25) guest rooms or suites, and guest amenities such as restaurants, spas and other amenities as determined by the Mississippi Development Authority; however, in a county in which the Grammy Museum Mississippi or the Mississippi Arts and Entertainment Center is located, in a county in which the Saenger Theater and the main campus of a state institution of higher learning are located, and in the downtown historic district of the city in which the NWCC Performing Arts Center is located, the minimum private investment per guest room or suite shall be One Hundred Fifty Thousand Dollars ($150,000.00) which amount shall be included within the minimum private investment of Fifteen Million Dollars ($15,000,000.00);

(v) A tourism attraction located within an "entertainment district" as defined in Section 17-29-3 that is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week;

(vi) A cultural retail attraction;

(vii) A tourism attraction located within a historic district where the district is listed in the National Register of Historic Places, where the tourism attraction is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week;

(viii) A tourism attraction, located in a county bordered by the Mississippi River and including Interstate 69 and U.S. Highways 3, 4 and 61, with a minimum investment of One Hundred Million Dollars ($100,000,000.00) and subject to an urban renewal plan that redevelops two (2) hotels, a golf course and clubhouse, a shooting range and a convention center and develops an entertainment center and waterpark, together with other attraction-related amenities, on an area not less than two thousand (2,000) acres.

The term "tourism project" does not include any licensed gaming establishment owned, leased or controlled by a business, corporation or entity having a gaming license issued under Section 75-76-1 et seq.; however, the term "tourism project" may include a project described in this paragraph (d) that is owned, leased or controlled by such a business, corporation or entity or in which the business, corporation or entity has a direct or indirect financial interest if the project is in excess of development that the State Gaming Commission requires for the issuance or renewal of a gaming license and is not part of a licensed gaming establishment in which gaming activities are conducted.

The term "tourism project" does not include any facility within the project whose primary business is retail sales or any expansions of

existing projects; however, pro shops, souvenir shops, gift shops, concessions and similar retail activities, and cultural retail attractions may be included within the definition of the term "tourism project." In addition, retail activities, regardless of whether the primary business is retail sales, that are part of a resort development may be included within the definition of "tourism project."

(e) "Resort development" means a travel destination development with a minimum private investment of One Hundred Million Dollars ($100,000,000.00) and which consists of (i) a hotel with a minimum of two hundred (200) guest rooms or suites and having a minimum private investment of Two Hundred Thousand Dollars ($200,000.00) per guest room or suite, and (ii) guest amenities such as restaurants, golf courses, spas, fitness facilities, entertainment activities and other amenities as determined by the MDA. Not more than an amount equal to forty percent (40%) of the private investment required by this paragraph may be expended on facilities to house retail activity.

(f) "Cultural retail attraction" means a project which combines destination shopping with cultural or historical interpretive elements specific to Mississippi with a minimum private investment of Fifty Million Dollars ($50,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority and which:

(i) Is located in a qualified resort area as defined in Section 67-1-5;

(ii) Is a part of a master-planned development with a total investment of not less than One Hundred Million Dollars ($100,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority;

(iii) Has a minimum of fifty (50) retail tenants with a minimum of three hundred thousand (300,000) square feet of heated and cooled space; and

(iv) Has a minimum investment of One Million Dollars ($1,000,000.00) in one or more of the following:

1. Art created by Mississippi artists or portraying themes specific to Mississippi;

2. Memorabilia, signage or historical markers which serve to promote the State of Mississippi;

3. Audio/visual equipment used to showcase Mississippi artists;

4. A minimum of one thousand two hundred fifty (1,250) square feet of heated and cooled space available to the Mississippi Development Authority or its assignee for a period of not less than ten (10) years.

(g) "Retail activity" means businesses whose inventory consists primarily of upscale name brands or their equivalent as determined by the MDA.

(h) "State" means the State of Mississippi.

**HISTORY: Laws, 2007, ch. 574, § 1; Laws, 2009, ch. 356, § 1; Laws, 2011, ch.**

**479, § 1; Laws, 2013, ch. 304, § 1; Laws, 2013, ch. 558, § 2; Laws, 2016, ch. 483, § 3, eff from and after July 1, 2016; Laws, 2020, ch. 440, § 1, eff from and after July 1, 2020.**

**Amendment Notes —** The 2016 amendment added "however, in a county ... Fifteen Million Dollars ($15,000,000.00)" at the end of (d)(iv).

The 2020 amendment, in (d), inserted "in a county in which the Saenger Theater ... NWCC Performing Arts Center is located" in (iv), and added (viii); and made minor stylistic changes.

## § 57-26-5. Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation; cost benefit analysis of project required.

(1) The MDA shall develop, implement and administer the incentive program authorized in Sections 57-26-1 through 57-26-5 and shall promulgate rules and regulations necessary for the development, implementation and administration of such program.

(2) A person, corporation or other entity desiring to participate in the incentive program authorized in Sections 57-26-1 through 57-26-5 must submit an application and an application fee in the amount of Five Thousand Dollars ($5,000.00) to the MDA. Such application must contain (a) plans for the proposed tourism project; (b) a detailed description of the proposed tourism project; (c) the method of financing the proposed tourism project and the terms of such financing; (d) an independent study that identifies the number of out-of-state visitors anticipated to visit the project and the ratio of out-of-state visitors to in-state visitors; and (e) any other information required by the MDA. The Executive Director of the MDA shall review the application and determine if it qualifies as a tourism project under this section and under the rules and regulations promulgated pursuant to this section. If the executive director determines the proposed tourism project qualifies as a tourism project under this section and under the rules and regulations promulgated pursuant to this section, he shall issue a certificate to the person, corporation or other entity designating such person, corporation or other entity as an approved participant and authorizing the approved participant to participate in the incentive program provided for in Sections 57-26-1 through 57-26-5. No certificate designating an entity as an approved participant and authorizing the approved participant to participate in the incentive program shall be issued from and after July 1, 2014, for tourism projects that are cultural retail attractions, or from and after July 1, 2023, for other tourism projects. For tourism projects that are cultural retail attractions, no such issued certificate shall be altered or extended after the date last approved as of July 1, 2020.

(3) The MDA shall cause a cost benefit analysis of the tourism project to be performed by a state institution of higher learning, the university research center or some other entity approved by the MDA.

**HISTORY: Laws, 2007, ch. 574, § 3; Laws, 2011, ch. 479, § 2; Laws, 2014, ch.**

**511, § 1; Laws, 2016, ch. 483, § 4, eff from and after July 1, 2016; Laws, 2020, ch. 440, § 2, eff from and after July 1, 2020.**

**Amendment Notes —** The 2016 amendment substituted "July 1, 2020" for "July 1, 2016" near the end of (2).

The 2020 amendment, in (2), in the next-to-last sentence, substituted "July 1, 2023" for "July 1, 2020," and added the last sentence.

# CHAPTER 39.

# ENERGY AND TRANSPORTATION PLANNING

Article 1. Energy Management Planning. ..... 57-39-1

## ARTICLE 1.

## ENERGY MANAGEMENT PLANNING.

Sec.
57-39-21. Energy efficiency standards for buildings [Repealed effective July 1, 2023].

### § 57-39-21. Energy efficiency standards for buildings [Repealed effective July 1, 2023].

(1) The board, in consultation with other appropriate professional groups and organizations, and others knowledgeable in the subject, shall review, amend and adopt, in accordance with Standard 90.1-2010 of the American Society of Heating, Refrigeration and Air-Conditioning Engineers, energy code standards for building construction, standards for computer-based energy management systems, standards for systems for cogeneration of heating, cooling and electricity, and standards for design to use passive solar energy concepts, in order to promote the efficient use of energy. For the purposes of this section, "building" shall mean any structure which includes provisions for a heating or cooling system, or both, or for a hot water system, except exempted buildings. Unless it is an exempted building, each of the following are examples of buildings, within the meaning of this section:

(a) Any building which provides facilities or shelter for public assembly, or which is used for educational, office or institutional purposes;

(b) Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant or other commercial establishment which provides service or retail merchandise;

(c) Any portion of an industrial plant building used primarily as office space; and

(d) Any building owned by a state or political subdivision or instrumentality thereof, including libraries, museums, schools, hospitals, auditoriums, sports arenas and university buildings.

(2) Exempt buildings shall include:

(a) Buildings and structures or portions thereof whose peak design rate of energy usage is less than three and four-tenths (3.4) British thermal units per hour per square foot or one (1.0) watt per square foot of floor area for all purposes;

(b) Buildings and structures or portions thereof which are neither heated nor cooled by fuel;

(c) Any mobile home;

(d) Any privately owned, noncommercial building or structure whose construction, heating, cooling or lighting arrangement is not in conflict with federal law;

(e) Any building owned or leased, in whole or in part, by the United States government.

(3) Beginning July 1, 2013, the design, direction, construction and alteration of any building for which the standards promulgated pursuant to subsection (1) of this section applies shall be accomplished so that the building or applicable portions thereof shall meet or conform to the standards. The board shall not have enforcement over this section. Local governing authorities shall adopt rules and regulations for the administration and enforcement of this section, and to adopt such penalties for violation of this section as they deem appropriate, except in regard to buildings owned by the state. In state-owned buildings, the building commission shall provide for the compliance with the standards adopted under this chapter. Local governing authorities are authorized to adopt rules and regulations as developed and promulgated by the commission for the administration and enforcement of these standards and to adopt such penalties for violations of the standards as they deem appropriate. Local governing authorities are authorized to establish an inspection fee for the inspection of thermal and lighting standards in an amount not to exceed One Hundred Fifty Dollars ($150.00).

(4) This section shall stand repealed from and after July 1, 2023.

**HISTORY: Laws, 1980, ch. 548, § 11; Laws, 2013, ch. 536, § 1; Laws, 2016, ch. 384, § 1, eff from and after July 1, 2016; Laws, 2019, ch. 399, § 1, eff from and after July 1, 2019.**

**Amendment Notes —** The 2016 amendment extended the date of the repealer for the section by substituting "July 1, 2019" for "July 1, 2016" in (4).

The 2019 amendment extended the date of the repealer for the section by substituting "July 1, 2023" for "July 1, 2019" in (4).

# CHAPTER 43.

# RAILROAD REVITALIZATION

## § 57-43-15. Mississippi Highway-Railroad Grade Crossing Safety Account.

**Editor's Notes —** Laws of 2018, 1st Extraordinary Session, ch. 3, § 12, effective September 5, 2018, provides:

"SECTION 12. (1) The State Treasurer shall transfer funds from the Budget

Contingency Fund to the following special funds in the following amounts:

(a) Fifty-two Million Eight Hundred Ninety-three Thousand Dollars ($52,893,000.00) to the 2018 Transportation and Infrastructure Improvements Fund created in House Bill No. 1, First Extraordinary Session of 2018;

(b) One Million Dollars ($1,000,000.00) to the Mississippi Highway-Railroad Grade Crossing Safety Account created in Section 57-43-15; and

(c) Seven Million Five Hundred Thousand Dollars ($7,500,000.00) to the Mississippi Railroad Improvements Fund created in Section 57-46-1.

(2) The State Treasurer shall transfer seventy-five percent (75%) of the amount remaining in the Budget Contingency Fund after the transfers required in subsection (1) of this section into the Gulf Coast Restoration Fund created in Section 3 of this act."

# CHAPTER 46.

# MISSISSIPPI RAILROAD IMPROVEMENTS FUND

Sec.

57-46-1. Mississippi Railroad Improvements Fund created; use of funds; grant program established; purpose of grants; application for grants.

## § 57-46-1. Mississippi Railroad Improvements Fund created; use of funds; grant program established; purpose of grants; application for grants.

(1)(a) There is created a special fund in the State Treasury to be known as the Mississippi Railroad Improvements Fund which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be disbursed by the Mississippi Development Authority (MDA) for the purposes authorized in subsection (2) of this section.

(b) Monies in the fund that are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant by the MDA. Reimbursement of reasonable actual and necessary costs for assistance shall not exceed three percent (3%) of the proceeds of bonds issued for such assistance. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(2) The MDA shall establish a program to make grants to short line railroads from the Mississippi Railroad Improvements Fund to assist in paying a portion of the costs associated with the repair, rehabilitation, construction, reconstruction, upgrading and improvement of railroad lines and related facilities, including projects necessary to ensure safety and structural integrity of rail lines, rail beds and bridges.

(3)(a) A short line railroad desiring a grant under this section shall submit an application to the MDA which shall include, at a minimum:

(i) A description, including the cost, of the requested assistance;

(ii) A description of the purpose for which the assistance is requested; and

(iii) Any other information required by the MDA.

(b) The MDA shall have sole discretion in providing grants under this section. The terms of a grant shall be within the discretion of the MDA.

(4) The MDA shall have all powers necessary to implement and administer the program established under this section, including the establishing of requirements for matching funds and criteria regarding the evaluation of applications for assistance. The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation and administration of this section.

**HISTORY: Laws, 2011, ch. 480, § 44, eff from and after passage (approved Apr. 6, 2011.); Laws, 2019, ch. 453, § 7, eff from and after July 1, 2019; Laws, 2020, ch. 492, § 30, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Editor's Notes —** Laws of 2018, 1st Extraordinary Session, ch. 3, § 12, effective September 5, 2018, provides:

"SECTION 12. (1) The State Treasurer shall transfer funds from the Budget Contingency Fund to the following special funds in the following amounts:

(a) Fifty-two Million Eight Hundred Ninety-three Thousand Dollars ($52,893,000.00) to the 2018 Transportation and Infrastructure Improvements Fund created in House Bill No. 1, First Extraordinary Session of 2018;

(b) One Million Dollars ($1,000,000.00) to the Mississippi Highway-Railroad Grade Crossing Safety Account created in Section 57-43-15; and

(c) Seven Million Five Hundred Thousand Dollars ($7,500,000.00) to the Mississippi Railroad Improvements Fund created in Section 57-46-1.

(2) The State Treasurer shall transfer seventy-five percent (75%) of the amount remaining in the Budget Contingency Fund after the transfers required in subsection (1) of this section into the Gulf Coast Restoration Fund created in Section 3 of this act."

**Amendment Notes —** The 2019 amendment, in (1)(b), substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing grants under this section through the use of general obligation bonds" in the first sentence, deleted "for each grant" following "shall be maintained" in the second sentence, and in the third sentence, deleted "for assistance" following "necessary costs" and "for such assistance" at the end.

The 2020 amendment, effective July 9, 2020, in (2), inserted "to short line railroads"; and in (3)(a), added "A short line railroad."

# CHAPTER 61.

# MISSISSIPPI BUSINESS INVESTMENT ACT

Sec.

57-61-25. Authorization of indebtedness; issuance of bonds; form of bonds; exemption from taxation by state; issuance of refunding bonds; taxable bonds.

57-61-36. Development infrastructure grant fund; housing development revolving loan fund; equipment and public facilities grant and loan fund; capital access program.

## § 57-61-25. Authorization of indebtedness; issuance of bonds; form of bonds; exemption from taxation by state; issuance of refunding bonds; taxable bonds.

(1) The seller is authorized to borrow, on the credit of the state upon receipt of a resolution from the Mississippi Development Authority requesting the same, monies not exceeding the aggregate sum of Three Hundred Eighty-seven Million Five Hundred Thousand Dollars ($387,500,000.00), not including monies borrowed to refund outstanding bonds, notes or replacement notes, as may be necessary to carry out the purposes of this chapter. The rate of interest on any such bonds or notes which are not subject to taxation shall not exceed the rates set forth in Section 75-17-101, Mississippi Code of 1972, for general obligation bonds.

(2) As evidence of indebtedness authorized in this chapter, general or limited obligation bonds of the state shall be issued, from time to time, to provide monies necessary to carry out the purposes of this chapter for such total amounts, in such form, in such denominations payable in such currencies (either domestic or foreign, or both) and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the seller directs, except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from date thereof and extending not more than thirty (30) years from date thereof.

(3) All bonds and notes issued under authority of this chapter shall be signed by the chairman of the seller, or by his facsimile signature, and the official seal of the seller shall be affixed thereto, attested by the secretary of the seller.

(4) All bonds and notes issued under authority of this chapter may be general or limited obligations of the state, and the full faith and credit of the State of Mississippi as to general obligation bonds, or the revenues derived from projects assisted as to limited obligation bonds, are hereby pledged for the payment of the principal of and interest on such bonds and notes.

(5) Such bonds and notes and the income therefrom shall be exempt from all taxation in the State of Mississippi.

(6) The bonds may be issued as coupon bonds or registered as to both principal and interest, as the seller may determine. If interest coupons are attached, they shall contain the facsimile signature of the chairman and secretary of the seller.

(7) The seller is authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any debt issued under the provisions of this chapter and then outstanding, either by voluntary exchange with the holders of the outstanding debt or to provide funds to redeem and the costs of issuance and retirement of the debt, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing officials in respect to the same shall be governed by the provisions of this section, insofar as they may be applicable.

(8) As to bonds issued hereunder and designated as taxable bonds by the seller, any immunity of the state to taxation by the United States government of interest on bonds or notes issued by the state is hereby waived.

(9) The proceeds of bonds issued under this chapter after April 9, 2002, may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority for the administration of the various grant, loan and financial incentive programs administered by the authority. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the Mississippi Development Authority. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements under this subsection shall satisfy any applicable federal tax law requirements.

**HISTORY: Laws, 1986, ch. 419, § 13; Laws, 1987, ch. 302, § 4; Laws, 1988, ch. 569, § 4; Laws, 1989, ch. 523, § 7; Laws, 1990 Ex Sess, ch. 71, § 19; Laws, 1993, ch. 548, § 4; Laws, 1995, ch. 548, § 5; Laws, 1996, ch. 553, § 2; Laws, 1998, ch. 559, § 1; Laws, 2002, ch. 541, § 1; Laws, 2002 2nd Ex Sess, ch. 3, § 1; Laws, 2003, ch. 502, § 1; Laws, 2004, 3rd Ex Sess., ch. 1, § 89; Laws, 2005, 3rd Ex Sess, ch. 1, § 35; Laws, 2007, ch. 517, § 1; Laws, 2008, ch. 506, § 8; Laws, 2010, ch. 533, § 27; Laws, 2011, ch. 480, § 7; Laws, 2013, ch. 569, § 32; Laws, 2014, ch. 530, § 10; Laws, 2016, ch. 511, § 16; Laws, 2017, ch. 390, § 5; ; Laws, 2019, ch. 453, § 7, eff from and after July 1, 2019, § 8; Laws, 2019, ch. 421, § 4, eff from and after July 1, 2019; Laws, 2020, ch. 492, § 7, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Joint Legislative Committee Note —** Section 4 of Chapter 421, Laws of 2019, effective July 1, 2019 (approved March 28, 2019), amended this section. Section 8 of Chapter 453, Laws of 2019, effective July 1, 2019 (approved April 12, 2019), also amended this section. As set out above, this section reflects the language of Section 8 of Chapter 453, Laws of 2019, which contains language that specifically provides that it supersedes § 57-61-25 as amended by Chapter 421, Laws of 2019.

**Amendment Notes —** The 2016 amendment substituted "Three Hundred Fifty-one Million Five Hundred Thousand Dollars ($351,500,000.00)" for "Three Hundred Forty-six Million Five Hundred Thousand Dollars ($346,500,000.00)" in (1).

The 2017 amendment substituted "monies not exceeding the aggregate sum of Three Hundred Fifty-eight Million Five Hundred Thousand Dollars ($358,500,000.00), not including monies borrowed" for "money not exceeding the aggregate sum of Three Hundred Fifty-one Million Five Hundred Thousand Dollars ($351,500,000.00), not including money borrowed" in the first sentence of (1).

The 2018 amendment substituted "Three Hundred Sixty-two Million Five Hundred Thousand Dollars ($362,500,000.00)" for "Three Hundred Fifty-eight Million Five Hundred Thousand Dollars ($358,500,000.00)" in (1).

The first 2019 amendment (ch. 421) substituted "Three Hundred Eighty-two Million Five Hundred Thousand Dollars ($382,500,000.00)" for "Three Hundred Sixty-two Million Five Hundred Thousand Dollars ($362,500,000.00)" in (1).

The second 2019 amendment (ch. 453) substituted "Three Hundred Eighty-two Million Five Hundred Thousand Dollars ($382,500,000.00)" for "Three Hundred Sixty-two Million Five Hundred Thousand Dollars ($362,500,000.00)" in (1); and in (9), substituted "for the administration of the various grant, loan and financial incentive programs administered by the authority" for "in administering a program or providing assistance related to a project, or both, for which funding is provided from the use of proceeds of such bonds" in the first sentence, deleted "for each project" following "shall be maintained" in the second sentence, in the third sentence, deleted "for a program or

project" following "necessary costs" and "for such program or project" at the end, and deleted the former next-to-last sentence, which read: "Monies authorized for a particular program or project may not be used to reimburse administrative costs for unrelated programs or projects."

The 2020 amendment, effective July 9, 2020, in (1), substituted "Three Hundred Eighty-seven Million Five Hundred Thousand Dollars ($387,500,000.00)" for "Three Hundred Eighty-two Million Five Hundred Thousand Dollars ($382,500,000.00)."

## § 57-61-36. Development infrastructure grant fund; housing development revolving loan fund; equipment and public facilities grant and loan fund; capital access program.

(1) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Fourteen Million Five Hundred Thousand Dollars ($14,500,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making grants to municipalities through a Development Infrastructure Grant Fund to complete infrastructure related to new or expanded industry.

(2) [Repealed]

(3) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize the monies transferred from the Housing Development Revolving Loan Fund and not more than Ninety-four Million One Hundred Thousand Dollars ($94,100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making grants or loans to municipalities through an equipment and public facilities grant and loan fund to aid in infrastructure-related improvements as determined by the Mississippi Development Authority, the purchase of equipment and in the purchase, construction or repair and renovation of public facilities. Any bonds previously issued for the Development Infrastructure Revolving Loan Program which have not been loaned or applied for are eligible to be administered as grants or loans. In making grants and loans under this section, the Mississippi Development Authority shall attempt to provide for an equitable distribution of such grants and loans among each of the congressional districts of this state in order to promote economic development across the entire state.

The requirements of Section 57-61-9 shall not apply to any grant made under this subsection. The Mississippi Development Authority may establish criteria and guidelines to govern grants made pursuant to this subsection.

(4) [Repealed]

(5)(a) The Mississippi Development Authority may establish a Capital Access Program and may contract with any financial institution to participate in the program upon such terms and conditions as the authority shall consider necessary and proper. The Mississippi Development Authority may establish loss reserve accounts at financial institutions that participate in the program and require payments by the financial institution and the borrower to such loss reserve accounts. All monies in such loss reserve accounts is the property of the Mississippi Development Authority.

(b) Under the Capital Access Program a participating financial institution may make a loan to any borrower the Mississippi Development Authority determines to be qualified under rules and regulations adopted by the authority and be protected against losses from such loans as provided in the program. Under such rules and regulations as may be adopted by the Mississippi Development Authority, a participating financial institution may submit claims for the reimbursement for losses incurred as a result of default on loans by qualified borrowers.

(c) Under the Capital Access Program a participating financial institution may make a loan that is secured by the assignment of the proceeds of a contract between the borrower and a public entity if the Mississippi Development Authority determines the loan to be qualified under the rules and regulations adopted by the authority. Under such rules and regulations as may be adopted by the Mississippi Development Authority, a participating financial institution may submit an application to the authority requesting that a loan secured pursuant to this paragraph be funded under the Capital Access Program.

(d) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority may utilize not more than One Million Five Hundred Fifty Thousand Dollars ($1,550,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making payments to loan loss reserve accounts established at financial institutions that participate in the Capital Access Program established by the Mississippi Development Authority; however, any portion of the bond proceeds authorized to be utilized by this paragraph that are not utilized for making payments to loss reserve accounts may be utilized by the Mississippi Development Authority to advance funds to financial institutions that participate in the Capital Access Program pursuant to paragraph (c) of this subsection.

(6) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Two Hundred Thousand Dollars ($200,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting Warren County, Mississippi, in the continuation and completion of the study for the proposed Kings Point Levee.

(7) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than One Hundred Thousand Dollars ($100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of developing a long-range plan for coordinating the resources of the state institutions of higher learning, the community and junior colleges, the Mississippi Development Authority and other state agencies in order to promote economic development in the state.

(8) Notwithstanding any other provision of this chapter to the contrary, the Mississippi Development Authority shall use not more than One Hundred Fifty Thousand Dollars ($150,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of providing assistance to

municipalities that have received Community Development Block Grant funds for repair, renovation and other improvements to buildings for use as community centers. Assistance provided to a municipality under this subsection shall be used by the municipality to match such Community Development Block Grant funds. The maximum amount of assistance that may be provided to a municipality under this subsection shall not exceed Seventy-five Thousand Dollars ($75,000.00) in the aggregate.

(9) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Two Million Dollars ($2,000,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting in paying the costs of constructing a new spillway and related bridge and dam structures at Lake Mary in Wilkinson County, Mississippi, including construction of a temporary dam and diversion canal, removing existing structures, removing and stockpiling riprap, spillway construction, dam embankment construction, road access, constructing bridges and related structures, design and construction engineering and field testing.

(10) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than One Hundred Thousand Dollars ($100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting the City of Holly Springs, Mississippi, in providing water and sewer and other infrastructure services in the Marshall, Benton and Tippah Counties area.

**HISTORY: Laws, 1993, ch. 548, § 5; Laws, 1994, ch. 560, § 1; Laws, 1994, ch. 556, § 17; Laws, 1995, ch. 548, § 6; Laws, 1998, ch. 559, § 3; Laws, 1999, ch. 419, § 1; Laws, 2000, ch. 584, § 2; Laws, 2001, ch. 456, § 1; Laws, 2002, ch. 418 , § 1; Laws, 2002, ch. 541, § 3; Laws, 2003, ch. 502, § 3; Laws, 2004, ch. 384, § 1; Laws, 2004, 3rd Ex Sess., ch. 1, § 90; Laws, 2005, 3rd Ex Sess, ch. 1, § 37; Laws, 2006, ch. 434, § 1; Laws, 2007, ch. 356, § 1; Laws, 2007, ch. 517, § 2; Laws, 2008, ch. 506, § 9; Laws, 2010, ch. 533, § 29; Laws, 2010 2nd Ex Sess, ch. 30, § 6; Laws, 2011, ch. 480, § 8; Laws, 2013, ch. 569, § 33; Laws, 2014, ch. 530, § 11; Laws, 2016, ch. 511, § 17; Laws, 2017, ch. 390, § 6, eff from and after July 1, 2017; Laws, 2018, ch. 412, § 3, eff from and after July 1, 2018; Laws, 2019, ch. 421, § 5, eff from and after July 1, 2019; Laws, 2020, ch. 492, § 8, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Amendment Notes** — The 2016 amendment substituted "Fourteen Million Five Hundred Thousand Dollars ($14,500,000.00)" for "Twelve Million Five Hundred Thousand Dollars ($12,500,000.00)" in (1); and substituted "Fifty-eight Million One Hundred Thousand Dollars ($58,100,000.00)" for "Fifty-five Million One Hundred Thousand Dollars ($55,100,000.00)" in (3).

The 2017 amendment substituted "monies transferred from the Housing Development Revolving Loan Fund and not more than Sixty-five Million One Hundred Thousand Dollars ($65,100,000.00)" for "money transferred from the Housing Development Revolving Loan Fund and not more than Fifty-eight Million One Hundred Thousand Dollars ($58,100,000.00)" in the first sentence of (3).

The 2018 amendment substituted "Sixty-nine Million One Hundred Thousand Dollars ($69,100,000.00)" for "Sixty-five Million One Hundred Thousand Dollars ($65,100,000.00)" in (3).

The 2019 amendment substituted "Eighty-nine Million One Hundred Thousand Dollars ($89,100,000.00)" for "Sixty-nine Million One Hundred Thousand Dollars

($69,100,000.00)" in (3).

The 2020 amendment, effective July 9, 2020, in (3), substituted "Ninety-four Million One Hundred Thousand Dollars ($94,100,000.00)" for "Eighty-nine Million One Hundred Thousand Dollars ($89,100,000.00)."

# CHAPTER 62.

# MISSISSIPPI ADVANTAGE JOBS ACT

## § 57-62-5. Definitions [Repealed effective July 1, 2023].

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 26; Laws, 2003, ch. 422, § 1; Laws, 2004, ch. 572, § 52; Laws, 2005, 3rd Ex Sess, ch. 1, § 69; Laws, 2008, 1st Ex Sess, ch. 30, § 52; Laws, 2010, ch. 533, § 32; Laws, 2010, ch. 559, § 52; Laws, 2011, ch. 471, § 53; Laws, 2011, 1st Ex Sess, ch. 1, § 3; reenacted without change, Laws, 2012, ch. 515, § 52, eff from and after July 1, 2012; reenacted without change, Laws, 2019, ch. 451, § 52, eff from and after April 3, 2019.**

**Editor's Notes —** This section was reenacted without change by Laws of 2019, ch. 451, § 52, effective from and after April 3, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement."

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, as amended by Laws of 2012, ch. 515, § 58, as amended by Laws of 2019, ch. 451, § 58, and as amended by Laws of 2020, ch. 476, § 7, provides:

"SECTION 60. Sections 8 through 59 of this act shall stand repealed on July 1, 2023."

**Amendment Notes —** The 2019 amendment, effective April 3, 2019, reenacted the section without change.

## § 57-62-9. Incentive payments; qualifications; extension of time for receipt of incentive payments and waiver of job maintenance and creation requirements under certain circumstances [Repealed effective July 1, 2023].

**HISTORY: Laws of 2000, 2nd Ex Sess, ch. 1, § 28; Laws, 2000, 3rd Ex Sess, ch. 1, § 16; Laws, 2004, ch. 572, § 53; Laws, 2005, 3rd Ex Sess, ch. 1, § 70; Laws, 2007, ch. 475, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 53; Laws, 2010, ch. 533, § 33; Laws, 2010, ch. 559, § 53; Laws, 2011, ch. 471, § 54; Laws, 2011 1st Ex Sess, ch. 1, § 4; reenacted without change, Laws, 2012, ch. 515, § 53; Laws, 2014, ch. 427, § 3, eff from and after July 1, 2014; reenacted without change, Laws, 2019, ch. 451, § 53, eff from and after April 3, 2019.**

**Editor's Notes —** This section was reenacted without change by Laws of 2019, ch. 451, § 53, effective from and after April 3, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, as amended by Laws of 2012, ch. 515, § 58, as amended by Laws of 2019, ch. 451, § 58, and as amended by Laws of 2020, ch. 476, § 7, provides:

"SECTION 60. Sections 8 through 59 of this act shall stand repealed on July 1, 2023."

**Amendment Notes** — The 2019 amendment, effective April 3, 2019, reenacted the section without change.

# CHAPTER 64.

# REGIONAL ECONOMIC DEVELOPMENT

Sec.

57-64-3. Declaration of public policy.
57-64-7. Definitions.
57-64-11. Issuance of bonds.
57-64-19. Intergovernmental cooperation and coordination; powers with regard to certain projects.
57-64-29. Authority of member of regional economic development alliance to negotiate purchase option for real property; preliminary engineering, environmental and related studies; costs.

## § 57-64-3. Declaration of public policy.

It is hereby declared that the state's public welfare demands, and the state's public policy requires:

(a) That for the benefit of the people of the State of Mississippi, it is essential to foster and promote the issuing of bonds by local government units jointly or severally, including any joint bond issuance with a county, parish or other foreign political subdivision in another state.

(b) That the bonds to be issued pursuant to this chapter shall be of any type permissible to be issued by any local government unit without limitation.

(c) That the purposes of the bonds issued under this chapter are for acquiring land and/or acquiring or constructing buildings, fixtures, machinery, equipment, infrastructure, utilities, port or airport facilities, roads, railroad spurs and other related projects that have or will provide a multijurisdictional benefit.

(d) That the projects contemplated under this chapter are to provide economic development benefits, including but not limited to, industry, distribution, commerce, tourism, healthcare and other purposes in which the public purpose and interest of the people of the state is served.

(e) That costs and revenues connected with a project should both be shared by the members of the alliance created pursuant to this chapter.

(f) That the authority granted under this chapter and the purposes to be accomplished hereby are proper governmental and public purposes and that the resulting economic benefits to the state are of paramount importance, mandating that the provisions of this chapter be liberally construed and applied in order to advance the public purposes.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 6; Laws, 2017, ch. 337, § 1, eff from and after passage (approved Mar. 13, 2017).**

**Amendment Notes** — The 2017 amendment, effective March 13, 2017, substituted "bonds by local government units" for "bonds by cities and counties acting" in (a); and

substituted "issued by any local government unit" for "issued by any city or county" in (b).

## § 57-64-7. Definitions.

For the purposes of this chapter, the following words shall be defined as herein provided unless the context requires otherwise:

(a) "Alliance" means a regional economic development alliance created under this chapter.

(b) "Bond" or "bonds" means bonds, notes or other evidence of indebtedness of the local government unit issued pursuant to this chapter.

(c) "Cost of project" means all costs of site preparation and other start-up costs; all costs of construction; all costs of fixtures and of real and personal property required for the purposes of the project and facilities related thereto, whether publicly or privately owned, including land and any rights or undivided interest therein, easements, franchises, fees, permits, approvals, licenses, and certificates and the securing of such permits, approvals, licenses, and certificates and all machinery and equipment, including motor vehicles which are used for project functions; and including any cost associated with the closure, post-closure maintenance or corrective action on environmental matters, financing charges and interest prior to and during construction and during such additional period as the alliance may reasonably determine to be necessary for the placing of the project in operation; costs of engineering, surveying, environmental geotechnical, architectural and legal services; costs of plans and specifications and all expenses necessary or incident to determining the feasibility or practicability of the project; administrative expenses; and such other expenses as may be necessary or incidental to the financing authorized in this chapter. The costs of any project may also include funds for the creation of a debt service reserve, a renewal and replacement reserve, bond insurance and credit enhancement, and such other reserves as may be reasonably required by the alliance for the operation of its projects and as may be authorized by any bond resolution or trust agreement or indenture pursuant to the provisions of which the issuance of any such bonds may be authorized. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the costs of the project and may be paid or reimbursed as such out of the proceeds of user fees, of revenue bonds or notes issued under this chapter for such project, or from other revenues obtained by the alliance.

(d) "County" means any county of this state.

(e) "Foreign governmental unit" means any county, parish, city, town, village, utility district, school district, any community college, any institution of higher learning, any municipal airport authority, regional airport authority, port authority or any other political subdivision of another state.

(f) "Governing body" means the board of supervisors of any county or the governing board of any city, town or village, the governing body of any utility district, the governing body of any school district or community college, the Board of Trustees of State Institutions of Higher Learning, the

governing body of any municipal or regional airport authority, the governing body of any port authority, or the governing body of any other political subdivision of the state. As to the state, the term governing body means the State Bond Commission.

(g) "Holder of bonds" or "bondholder" or any similar term means any person who shall be the registered owner of any such bond or bonds which shall at the time be registered.

(h) "Law" means any act or statute, general, special or local, of this state.

(i) "Local government unit" means any county or incorporated city, town or village in the state, any school district, any utility district, any community college, any institution of higher learning, any municipal airport authority, any regional airport authority, any port authority or any other political subdivision of the state acting jointly or severally.

(j) "MDA" means the Mississippi Development Authority.

(k) "Municipality" means any incorporated municipality in the state.

(*l*) "Person" means a natural person, partnership, association, corporation, business trust or other business entity.

(m) "Project" means and includes any of the following which promotes economic development or which assists in the creation of jobs, whether publicly or privately owned:

(i) Acquisition, construction, repair, renovation, demolition or removal of:

1. Buildings and site improvements (including fixtures);
2. Potable and nonpotable water supply systems;
3. Sewage and waste disposal systems;
4. Storm water drainage and other drainage systems;
5. Airport facilities;
6. Rail lines and rail spurs;
7. Port facilities;
8. Highways, streets and other roadways;
9. Fire suppression and prevention systems;
10. Utility distribution systems, including, but not limited to, water, electricity, natural gas, telephone and other information and telecommunications facilities, whether by wire, fiber or wireless means; provided, however, that electrical, natural gas, telephone and telecommunication systems shall be constructed, repaired or renovated only for the purpose of completing the project and connecting to existing utility systems (this provision shall not be construed to prevent a city, county or natural gas district from supplying utility service that it is authorized to supply in the service area that it is authorized to serve);
11. Business, industrial and technology parks and the acquisition of land and acquisition or construction of improvements to land connected with any of the preceding purposes;

(ii) County purposes authorized by or defined in Sections 17-5-3 and 19-9-1, (except Section 19-9-1(f));

(iii) Municipal purposes authorized by or defined in Sections 17-5-3, 17-17-301 et seq., 21-27-23 and 21-33-301;

(iv) Refunding of bonds as authorized in Section 21-27-1 et seq.; and

(v) A project as defined in Section 57-75-5(f) (i) or a facility related to the project as defined in Section 57-75-5(d), or both.

(n) "Resolution" means a resolution, ordinance, act, record of minutes or other appropriate enactment of a governing body.

(o) "Revenues" mean any and all taxes, fees, rates, rentals, profits and receipts collected by, payable to, or otherwise derived by, the local government units and foreign governmental units, and all other monies and income of whatsoever kind or character collected by, payable to, or otherwise derived by, the local government unit and foreign governmental units in connection with the economic development projects provided through this chapter.

(p) "Security" means a bond, note or other evidence of indebtedness issued by a local government unit pursuant to the provisions of this chapter.

(q) "State" means the State of Mississippi.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 8; Laws, 2006, ch. 538, § 17; Laws, 2017, ch. 337, § 2, eff from and after passage (approved Mar. 13, 2017).**

**Amendment Notes —** The 2017 amendment, effective March 13, 2017, added "the governing body of any utility district...any other political subdivision of the state" at the end of the first sentence of (f); inserted "any school district...any other political subdivision of the state" in (i); and made a minor stylistic change.

## § 57-64-11. Issuance of bonds.

(1) After receiving a certificate of public convenience and necessity from the MDA, the local government unit is empowered and authorized, from time to time, to issue bonds up to the maximum principal amount authorized in the certificate.

(2) After receiving a certificate of public convenience and necessity from the MDA, the governing body of any local government unit entering into an agreement pursuant to this chapter may incur bonded and floating indebtedness by issuing general obligation bonds, revenue bonds or special assessment bonds as authorized by any statute authorizing the issuance of such bonds,, and otherwise incur indebtedness in any manner for which the local government unit is authorized by statute to incur debt, and may appropriate funds for the purposes and in the manner prescribed by law without regard to whether the activities and improvements authorized by this chapter to be financed by such debt or appropriation are within or without the boundaries of the local government unit. Revenues derived from any project financed with bonds issued pursuant to this chapter may be pledged in whole or in part to secure payment of the bonded indebtedness incurred to finance the project. Such governing body may sell, lease, grant or otherwise supply goods and services to any other local government unit which is a party to the agreement or the administrative body or legal entity created to operate the joint or cooperative undertaking.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 10; Laws, 2017, ch. 337, § 3, eff from and after passage (approved Mar. 13, 2017).**

**Editor's Notes —** There is a typographical error in the first sentence of (2). As amended by Section 3 of Chapter 337, Laws of 2017, the sentence reads, in part: "...issuance of such bonds,, and otherwise incur indebtedness..."

**Amendment Notes —** The 2017 amendment, effective March 13, 2017, rewrote the first sentence of (2), which read: "After receiving a certificate of public convenience and necessity from the MDA, the governing body of any local government unit entering into an agreement pursuant to this chapter may incur bonded and floating indebtedness by issuing general obligation bonds as authorized by Sections 19-9-1 through 19-9-31 and Sections 21-33-301 through 21-33-329, or by issuing bonds pursuant to the Tax Increment Financing Act as authorized by Sections 21-45-3 through 21-45-21, by issuing revenue bonds as authorized by any statute authorizing the issuance of revenue bonds, or by issuing special assessment bonds as authorized by Sections 21-41-1 through 21-41-47 and may appropriate funds for the purposes and in the manner prescribed by law without regard to whether the activities and improvements authorized by this chapter to be financed by such debt or appropriation are within or without the boundaries of the local government unit."

## § 57-64-19. Intergovernmental cooperation and coordination; powers with regard to certain projects.

(1) The alliance is authorized to cooperate and coordinate with economic development commissions, authorities, districts, travel, and other similar commissions and boards, or other similar agencies of other states, the federal government, and with county, municipal, and regional economic development, travel, and other similar commissions or boards, or other agencies thereof, and other political subdivisions of this state, for the purposes of securing economic development within the State of Mississippi and other states, and to accomplish this purpose.

(2) With regard to a project as defined in Section 57-75-5(f)(xxi) a regional economic development alliance shall have the following powers:

(a) [Repealed].

(b) To negotiate the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, cellular towers and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of the project.

(c) To negotiate the necessary relocation of graves and cemeteries and to pay all reasonable costs thereof as necessary for the project.

(d) To lease, sell or convey any or all property acquired by the alliance or its agent under the provisions of this section to the enterprise operating the project, its affiliates, successors or assigns, and in connection therewith to warrant title to pay the costs of title search, perfection of title, title insurance and recording fees as may be required for the project.

(e) To establish and maintain reasonable rates and charges for the use of any facility or property within the project area owned or operated by the alliance, and from time to time, to adjust such rates and to impose penalties for failure to pay such rates and charges when due as necessary for the project.

(f) To establish land use restrictions within the lands adjacent to the project site. Within the lands identified as necessary for the project, the following land uses are prohibited:

(i) Heavy industrial uses, where the assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, which shall include, enameling, lacquering; foundries producing iron and steel products; industrial chemical manufacture; meat packing plants; oxygen manufacture and/or storage; pottery, porcelain and vitreous china manufacture; poultry dressing for wholesale; pressure treating of wood; stone cutting; tire recapping and retreading; resource extraction; and recycling and salvage operations.

(ii) All temporary or permanent living quarters, including, without limitation, houses, residential buildings, apartments, motels, hotels, motor lodges, mobile home parks, camping grounds, nursing homes, independent and assisted living facilities.

(iii) Schools, day care centers and hospitals.

(iv) Any of the uses set forth in this paragraph (f) which are ancillary or adjacent to an otherwise permitted use.

Notwithstanding the foregoing, these land use restrictions will not prohibit the continuation of existing uses, including rebuilding substantially in conformity with the use in existence immediately before a casualty loss. For a period of twelve (12) months from the date of adoption, the property owners within the lands identified as necessary for the project have a vested right to complete any new land use that is currently under construction.

(g) To execute contractual agreements to warrant the project site for any and all preexisting environmental issues and to indemnify an enterprise owning a project on that site for such preexisting environmental issues.

(h) To adopt and enforce all necessary and reasonable rules and regulations restrictions to carry out and effectuate the implementation of the project concerning mining or any other activity the occurrence of which may endanger the structure or operation of the project. These rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 14; Laws, 2007, ch. 303, § 12, eff from and after passage (approved Mar. 2, 2007).**

**Editor's Notes —** Paragraph (2)(a), which authorized regional economic development alliances to acquire by purchase, lease, gift or condemnation, and to own,

maintain, use, operate and convey any and all property of any kind, real, personal, or mixed, or any interest or estate therein, was repealed by its own terms effective July 1, 2012.

### § 57-64-29. Authority of member of regional economic development alliance to negotiate purchase option for real property; preliminary engineering, environmental and related studies; costs.

A local government unit that is a member of a regional economic development alliance created under the Regional Economic Development Act is authorized to negotiate a purchase option for real property to be used for the purposes of the alliance. A local government unit may pay all costs incurred for the acquisition of such an option regardless of whether the local government unit exercises the option at a later date. As a part of any such option, a local government unit may negotiate the right to enter upon the real property before the purchase for the purpose of conducting any preliminary engineering, environmental and related surveys or studies necessary to effectuate the option. A local government unit may pay all costs incurred for such surveys or studies regardless of whether the local government unit exercises the option at a later date.

**HISTORY: Laws, 2002, ch. 464, § 1; Laws, 2017, ch. 337, § 4, eff from and after passage (approved Mar. 13, 2017).**

**Amendment Notes** — The 2017 amendment, effective March 13, 2017, substituted "local government unit" for "county" everywhere it appears.

## CHAPTER 73.

## ECONOMIC DEVELOPMENT REFORM ACT

Sec.
57-73-25. Repealed.

### § 57-73-21. Determination and designation of counties' unemployment rate and per capita income; job tax credit for corporations [Subsection (7) in the second version is repealed effective July 1, 2022].

**[In cases involving business enterprises that received or applied for the job tax credit authorized by this section prior to January 1, 2005, this section shall read as follows:]**

(1) Annually by December 31, using the most current data available from the University Research Center, Mississippi Department of Employment Security and the United States Department of Commerce, the State Tax Commission shall rank and designate the state's counties as provided in this section. The twenty-eight (28) counties in this state having a combination of

the highest unemployment rate and lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Three areas. The twenty-seven (27) counties in the state with a combination of the next highest unemployment rate and next lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Two areas. The twenty-seven (27) counties in the state with a combination of the lowest unemployment rate and the highest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier One areas. Counties designated by the Tax Commission qualify for the appropriate tax credit for jobs as provided in subsections (2), (3) and (4) of this section. The designation by the Tax Commission is effective for the tax years of permanent business enterprises which begin after the date of designation. For companies which plan an expansion in their labor forces, the Tax Commission shall prescribe certification procedures to ensure that the companies can claim credits in future years without regard to whether or not a particular county is removed from the list of Tier Three or Tier Two areas.

(2) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties designated by the Tax Commission as Tier Three areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to Two Thousand Dollars ($2,000.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not allowed during any of the five (5) years if the net employment increase falls below ten (10). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

(3) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of

the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties that have been designated by the Tax Commission as Tier Two areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to One Thousand Dollars ($1,000.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties designated by the Tax Commission as Tier One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to Five Hundred Dollars ($500.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by twenty (20) or more in Tier One areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment

increase falls below twenty (20). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of twenty (20).

(5) In addition to the credits authorized in subsections (2), (3) and (4), an additional Five Hundred Dollars ($500.00) credit for each net new full-time employee or an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars ($2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of thirty-five (35) jobs must be created to qualify for the additional credit. The State Tax Commission shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this subsection. As used in this subsection, the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(6) In addition to the credits authorized in subsections (2), (3), (4) and (5), any job requiring research and development skills (chemist, engineer, etc.) shall qualify for an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee.

(7) In lieu of the tax credits provided in subsections (2) through (6), any commercial or industrial property owner which remediates contaminated property in accordance with Sections 49-35-1 through 49-35-25, is allowed a job tax credit for taxes imposed by Section 27-7-5 equal to the amounts provided in subsection (2), (3) or (4) for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. This subsection shall be administered in the same manner as subsections (2), (3) and (4), except the landowner shall not be required to increase employment by the levels provided in subsections (2), (3) and (4) to be eligible for the tax credit.

(8) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for additional net new full-time jobs created by business enterprises qualified under subsections (2), (3), (4), (5), (6) and (7) of this section. Except as otherwise provided, the Tax Commission shall adjust the credit allowed in the event of employment fluctuations during the additional five (5) years of credit.

(9)(a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business

enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(b) This subsection shall not apply in cases in which a business enterprise has ceased operation, laid off all its employees and is subsequently acquired by another unrelated business entity that continues operation of the enterprise in the same or a similar type of business. In such a case the succeeding business entity shall be eligible for the credit authorized by this section unless the cessation of operation of the business enterprise was for the purpose of obtaining new eligibility for the credit.

(10) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) years from the close of the tax year in which the qualified jobs were established but the credit established by this section taken in any one (1) tax year must be limited to an amount not greater than fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year. If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Chairman of the State Tax Commission may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years.

(11) No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.

(12) The credits allowed under this section shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits.

(13) The tax credits provided for in this section shall be in addition to any tax credits described in Sections 57-51-13(b), 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official action by the Mississippi Development Authority prior to July 1, 1989, to any business enterprise determined prior to July 1, 1989, by the Mississippi Development Authority to be a qualified business as defined in Section 57-51-5(f) or Section 57-54-5(d) or a qualified company as described in Section 57-53-1, as the case may be; however, from and after July 1, 1989, tax credits shall be allowed only under either this section or Sections 57-51-13(b), 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time employee.

(14) As used in this section, the term "telecommunications enterprises" means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design, development, manufacture, maintenance or distribution

for compensation of devices, products, software or structures used in the above activities. Companies organized to do business as commercial broadcast radio stations, television stations or news organizations primarily serving in-state markets shall not be included within the definition of the term "telecommunications enterprises."

**[In cases involving business enterprises that apply for the job tax credit authorized by this section from and after January 1, 2005, this section shall read as follows:]**

(1) Annually by December 31, using the most current data available from the University Research Center, Mississippi Department of Employment Security and the United States Department of Commerce, the Department of Revenue shall rank and designate the state's counties as provided in this section. The twenty-eight (28) counties in this state having a combination of the highest unemployment rate and lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Three areas. The twenty-seven (27) counties in the state with a combination of the next highest unemployment rate and next lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Two areas. The twenty-seven (27) counties in the state with a combination of the lowest unemployment rate and the highest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier One areas. Counties designated by the Department of Revenue qualify for the appropriate tax credit for jobs as provided in this section. The designation by the Department of Revenue is effective for the tax years of permanent business enterprises which begin after the date of designation. For companies which plan an expansion in their labor forces, the Department of Revenue shall prescribe certification procedures to ensure that the companies can claim credits in future years without regard to whether or not a particular county is removed from the list of Tier Three or Tier Two areas.

(2) Permanent business enterprises in counties designated by the Department of Revenue as Tier Three areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to ten percent (10%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not

allowed during any of the five (5) years if the net employment increase falls below ten (10). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

(3) Permanent business enterprises in counties that have been designated by the Department of Revenue as Tier Two areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to five percent (5%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises in counties designated by the Department of Revenue as Tier One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to two and one-half percent (2.5%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by twenty (20) or more in Tier One areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below twenty (20). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of twenty (20).

(5)(a) In addition to the other credits authorized in this section, an additional Five Hundred Dollars ($500.00) credit for each net new full-time employee or an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are

not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars ($2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of twenty (20) jobs must be created to qualify for the additional credit. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this paragraph (a). As used in this paragraph (a), the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(b) In addition to the other credits authorized in this section, an additional Five Hundred Dollars ($500.00) credit for each net new full-time employee or an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars ($2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company expanding or making additions after January 1, 2013, to its national or regional headquarters within the State of Mississippi. A minimum of twenty (20) new jobs must be created to qualify for the additional credit. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this paragraph (b). As used in this paragraph (b), the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(6) In addition to the other credits authorized in this section, any job requiring research and development skills (chemist, engineer, etc.) shall qualify for an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee.

(7)(a) In addition to the other credits authorized in this section, any company that transfers or relocates its national or regional headquarters to the State of Mississippi from outside the State of Mississippi may receive a tax credit in an amount equal to the actual relocation costs paid by the company. A minimum of twenty (20) jobs must be created in order to qualify for the additional credit authorized under this subsection. Relocation costs for which a credit may be awarded shall be determined by the Department of Revenue and shall include those nondepreciable expenses that are necessary to relocate headquarters employees to the national or regional

headquarters, including, but not limited to, costs such as travel expenses for employees and members of their households to and from Mississippi in search of homes and moving expenses to relocate furnishings, household goods and personal property of the employees and members of their households.

(b) The tax credit authorized under this subsection shall be applied for the taxable year in which the relocation costs are paid. The maximum cumulative amount of tax credits that may be claimed by all taxpayers claiming a credit under this subsection in any one (1) state fiscal year shall not exceed One Million Dollars ($1,000,000.00), exclusive of credits that might be carried forward from previous taxable years. A company may not receive a credit for the relocation of an employee more than one (1) time in a twelve-month period for that employee.

(c) The Department of Revenue shall establish criteria and prescribe procedures to determine if a company creates the required number of jobs and qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this subsection. A company desiring to claim a credit under this subsection must submit an application for such credit with the Department of Revenue in a manner prescribed by the department.

(d) In order to participate in the provisions of this section, a company must certify to the Mississippi Department of Revenue that it complies with the equal pay provisions of the federal Equal Pay Act of 1963, the Americans with Disabilities Act of 1990 and the fair pay provisions of the Civil Rights Act of 1964.

(e) This subsection shall stand repealed on July 1, 2022.

(8) In lieu of the other tax credits provided in this section, any commercial or industrial property owner which remediates contaminated property in accordance with Sections 49-35-1 through 49-35-25, is allowed a job tax credit for taxes imposed by Section 27-7-5 equal to the percentage of payroll provided in subsection (2), (3) or (4) of this section for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the jobs. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. This subsection shall be administered in the same manner as subsections (2), (3) and (4), except the landowner shall not be required to increase employment by the levels provided in subsections (2), (3) and (4) to be eligible for the tax credit.

(9)(a) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for increases in the annual payroll for net new full-time jobs created by business enterprises qualified under this section. The Department of Revenue shall adjust the credit allowed in the event of payroll fluctuations during the additional five (5) years of credit.

(b) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for additional net new full-time jobs created by business enterprises qualified under subsections (5) and (6) of this section and for

additional relocation costs paid by companies qualified under subsection (7) of this section. The Department of Revenue shall adjust the credit allowed in the event of employment fluctuations during the additional five (5) years of credit.

(10)(a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Department of Revenue shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(b) This subsection shall not apply in cases in which a business enterprise has ceased operation, laid off all its employees and is subsequently acquired by another unrelated business entity that continues operation of the enterprise in the same or a similar type of business. In such a case the succeeding business entity shall be eligible for the credit authorized by this section unless the cessation of operation of the business enterprise was for the purpose of obtaining new eligibility for the credit.

(11) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) years from the close of the tax year in which the qualified jobs were established and/or headquarters relocation costs paid, as applicable, but the credit established by this section taken in any one (1) tax year must be limited to an amount not greater than fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year. If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Commissioner of Revenue may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years.

(12) No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.

(13) The credits allowed under this section shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits.

(14) As used in this section:

(a) "Business enterprises" means entities primarily engaged in:

(i) Manufacturing, processing, warehousing, warehousing activities, distribution, wholesaling and research and development, or

(ii) Permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that

impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise.

(b) "Telecommunications enterprises" means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design, development, manufacture, maintenance or distribution for compensation of devices, products, software or structures used in the above activities. Companies organized to do business as commercial broadcast radio stations, television stations or news organizations primarily serving in-state markets shall not be included within the definition of the term "telecommunications enterprises."

(c) "Warehousing activities" means entities that establish or expand facilities that service and support multiple retail or wholesale locations within and outside the state. Warehousing activities may be performed solely to support the primary activities of the entity, and credits generated shall offset the income of the entity based on an apportioned ratio of payroll for warehouse employees of the entity to total Mississippi payroll of the entity that includes the payroll of retail employees of the entity.

(15) The tax credits provided for in this section shall be in addition to any tax credits described in Sections 57-51-13(b), 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official action by the Mississippi Development Authority prior to July 1, 1989, to any business enterprise determined prior to July 1, 1989, by the Mississippi Development Authority to be a qualified business as defined in Section 57-51-5(f) or Section 57-54-5(d) or a qualified company as described in Section 57-53-1, as the case may be; however, from and after July 1, 1989, tax credits shall be allowed only under either this section or Sections 57-51-13(b), 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time employee.

(16) A business enterprise that chooses to receive job training assistance pursuant to Section 57-1-451 shall not be eligible for the tax credits provided for in this section.

**HISTORY: Laws, 1989, ch. 524, § 11; Laws, 1990, ch. 502, § 8; Laws, 1991, ch. 584, § 9; Laws, 1994, ch. 558, § 19; Laws, 1995, ch. 527, § 2; Laws, 2000, 2nd Ex Sess, ch. 1, § 40; Laws, 2005, ch. 497, § 7; Laws, 2005, 3rd Ex Sess, ch. 1, § 66; Laws, 2007, ch. 452, § 1; Laws, 2009, ch. 557, § 22; Laws, 2010, ch. 533, § 37; Laws, 2013, ch. 447, § 4; Laws, 2013, ch. 571, § 2; Laws, 2014, ch. 445, § 1; Laws, 2014, ch. 455, § 1, eff from and after Jan. 1, 2014; Laws, 2019, ch. 332, § 1, eff from and after July 1, 2019.**

**Amendment Notes** — The 2019 amendment, in the version of the section that applies to enterprises that apply for the job tax credit authorized by the section from and after January 1, 2005, extended the date of the repealer for subsection (7) by substituting "July 1, 2022" for "July 1, 2019" in (e).

**Federal Aspects** — Equal pay provisions of the Equal Pay Act of 1963, see 29 USCS § 206(d). Fair pay provisions of the Civil Rights Act of 1964, see 42 U.S.C. § 2000e-2. Americans with Disabilities Act of 1990 generally, see 42 USCS § 12101 et seq.

## § 57-73-25. Repealed.

Repealed by its own terms, eff from and after July 1, 2016.

§ 57-73-25. [Laws, 1989, ch. 524, § 13; Laws, 1990, ch. 502, § 10; Laws, 1992, ch. 567, § 1; Laws, 1993, ch. 602, § 15; Laws, 1994, ch. 436, § 1; Laws, 1995, ch. 527, § 3; Laws, 2000, ch. 382, § 1; Laws, 2000, 2nd Ex Sess, ch. 1, § 41; reenacted and amended, Laws, 2002, ch. 382, § 1; Laws, 2004, ch. 513, § 1; Laws, 2005, 3rd Ex Sess, ch. 1, § 67; Laws, 2006, ch. 339, § 1; Laws, 2008, ch. 367, § 1; Laws, 2012, ch. 400, § 1; Laws, 2014, ch. 397, § 61, eff from and after July 1, 2014.]

**Editor's Notes —** Former § 57-73-25 provided a tax credit for employers providing basic skills training or retraining programs.

# CHAPTER 75.

# MISSISSIPPI MAJOR ECONOMIC IMPACT ACT

Sec.


57-75-5. Definitions [Repealed effective July 1, 2023].
57-75-9. Action by authority on behalf of state; cooperation of public agencies with authority; contracts by authority or public agency.
57-75-11. General powers and duties of authority.
57-75-15. Powers and duties of State Bond Commission.
57-75-17. Powers and duties of public agencies; provision in contracts or agreements between authority and public agency for payment of indebtedness; proceedings upon failure of public agency to pay indebtedness.
57-75-33. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that no taxes, fees or assessments will be levied upon the enterprise other than those generally levied upon all taxpayers; counties and municipalities authorized to enter into fee in lieu of ad valorem taxes agreements.
57-75-37. Certain counties authorized to contribute or lend funds to enterprises owning or operating certain projects; county may issue bonds to provide funds for such purposes; county may donate property for use in the location, construction, or operation of such projects; additional authority to acquire and contribute project sites, apply for grants and loans for project infrastructure, and enter into certain lease agreements.


## § 57-75-5. Definitions [Repealed effective July 1, 2023].

Words and phrases used in this chapter shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) "Act" means the Mississippi Major Economic Impact Act as originally enacted or as hereafter amended.

(b) "Authority" means the Mississippi Major Economic Impact Authority created pursuant to the act.

(c) "Bonds" means general obligation bonds, interim notes and other evidences of debt of the State of Mississippi issued pursuant to this chapter.

(d) "Facility related to the project" means and includes any of the following, as the same may pertain to the project within the project area: (i) facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project; (ii) airports, airfields and air terminals; (iii) rail lines; (iv) port facilities; (v) highways, streets and other roadways; (vi) public school buildings, classrooms and instructional facilities, training facilities and equipment, including any functionally related facilities; (vii) parks, outdoor recreation facilities and athletic facilities; (viii) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities; (ix) health care facilities, public or private; and (x) fire protection facilities, equipment and elevated water tanks.

(e) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(f) "Project" means:

(i) Any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources together with all buildings, and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise; or with an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall include any addition to or expansion of an existing enterprise if such addition or expansion has an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United

States government sources, or has an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall also include any ancillary development or business resulting from the enterprise, of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the project area has been selected as the site for the ancillary development or business.

(ii)1. Any major capital project designed to improve, expand or otherwise enhance any active duty or reserve United States armed services bases and facilities or any major Mississippi National Guard training installations, their support areas or their military operations, upon designation by the authority that any such base was or is at risk to be recommended for closure or realignment pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, or other applicable federal law; or any major development project determined by the authority to be necessary to acquire or improve base properties and to provide employment opportunities through construction of projects as defined in Section 57-3-5, which shall be located on or provide direct support service or access to such military installation property in the event of closure or reduction of military operations at the installation.

2. Any major study or investigation related to such a facility, installation or base, upon a determination by the authority that the study or investigation is critical to the expansion, retention or reuse of the facility, installation or base.

3. Any project as defined in Section 57-3-5, any business or enterprise determined to be in the furtherance of the public purposes of this act as determined by the authority or any facility related to such project each of which shall be, directly or indirectly, related to any military base or other military-related facility no longer operated by the United States armed services or the Mississippi National Guard.

(iii) Any enterprise to be maintained, improved or constructed in Tishomingo County by or for a National Aeronautics and Space Administration facility in such county.

(iv)1. Any major capital project with an initial capital investment from private sources of not less than Seven Hundred Fifty Million Dollars ($750,000,000.00) which will create at least three thousand (3,000) jobs meeting criteria established by the Mississippi Development Authority.

2. "Project" shall also include any ancillary development or business resulting from an enterprise operating a project as defined in item 1 of this paragraph (f)(iv), of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the state has been selected as the site for the ancillary development or business.

(v) Any manufacturing, processing or industrial project determined by the authority, in its sole discretion, to contribute uniquely and significantly to the economic growth and development of the state, and which meets the following criteria:

1. The project shall create at least two thousand (2,000) net new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law.

2. The project and any facility related to the project shall include a total investment from private sources of not less than Sixty Million Dollars ($60,000,000.00), or from any combination of sources of not less than Eighty Million Dollars ($80,000,000.00).

(vi) Any real property owned or controlled by the National Aeronautics and Space Administration, the United States government, or any agency thereof, which is legally conveyed to the State of Mississippi or to the State of Mississippi for the benefit of the Mississippi Major Economic Impact Authority, its successors and assigns pursuant to Section 212 of Public Law 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

(vii) Any major capital project related to the establishment, improvement, expansion and/or other enhancement of any active duty military installation and having a minimum capital investment from any source or combination of sources other than the State of Mississippi of at least Forty Million Dollars ($40,000,000.00), and which will create at least four hundred (400) military installation related full-time jobs, which jobs may be military jobs, civilian jobs or a combination of military and civilian jobs. The authority shall require that binding commitments be entered into requiring that the minimum requirements for the project provided for in this subparagraph shall be met not later than July 1, 2008.

(viii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars ($10,000,000.00) which will create at least eighty (80) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(ix) Any regional retail shopping mall with an initial capital investment from private sources in excess of One Hundred Fifty Million Dollars ($150,000,000.00), with a square footage in excess of eight hundred thousand (800,000) square feet, which will create at least seven hundred (700) full-time jobs with an average hourly wage of Eleven Dollars ($11.00) per hour. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(x) Any major capital project with an initial capital investment from any source or combination of sources of not less than Seventy-five Million Dollars ($75,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the greater. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xi) Any potential major capital project that the authority has determined is feasible to recruit.

(xii) Any project built according to the specifications and federal provisions set forth by the National Aeronautics and Space Administration Center Operations Directorate at Stennis Space Center for the purpose of consolidating common services from National Aeronautics and Space Administration centers in human resources, procurement, financial management and information technology located on land owned or controlled by the National Aeronautics and Space Administration, which will create at least four hundred seventy (470) full-time jobs.

(xiii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars ($10,000,000.00) which will create at least two hundred fifty (250) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xiv) Any major pharmaceutical facility with a capital investment of not less than Fifty Million Dollars ($50,000,000.00) made after July 1, 2002, through four (4) years after the initial date of any loan or grant made by the authority for such project, which will maintain at least seven hundred fifty (750) full-time employees. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xv) Any pharmaceutical manufacturing, packaging and distribution facility with an initial capital investment from any local or federal sources of not less than Five Hundred Thousand Dollars ($500,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvi) Any major industrial wood processing facility with an initial capital investment of not less than One Hundred Million Dollars ($100,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty Thousand Dollars ($30,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvii) Any technical, engineering, manufacturing-logistic service provider with an initial capital investment of not less than One Million Dollars ($1,000,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the

funds provided by the state for the project as determined by the authority shall be repaid.

(xviii) Any major capital project with an initial capital investment from any source or combination of sources other than the State of Mississippi of not less than Six Hundred Million Dollars ($600,000,000.00) which will create at least four hundred fifty (450) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Seventy Thousand Dollars ($70,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xix) Any major coal and/or petroleum coke gasification project with an initial capital investment from any source or combination of sources other than the State of Mississippi of not less than Eight Hundred Million Dollars ($800,000,000.00), which will create at least two hundred (200) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars ($45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xx) Any planned mixed use development located on not less than four thousand (4,000) acres of land that will consist of commercial, recreational, resort, tourism and residential development with a capital investment from private sources of not less than Four Hundred Seventy-five Million Dollars ($475,000,000.00) in the aggregate in any one (1) or any combination of tourism projects that will create at least three thousand five hundred (3,500) jobs in the aggregate. For the purposes of this paragraph (f)(xx), the term "tourism project" means and has the same definition as that term has in Section 57-28-1. In order to meet the minimum capital investment required under this paragraph (f)(xx), at least Two Hundred Thirty-seven Million Five Hundred Thousand Dollars ($237,500,000.00) of such investment must be made not later than June 1, 2015, and the remainder of the minimum capital investment must be made not later than June 1, 2017. In order to meet the minimum number of jobs required to be created under this paragraph (f)(xx), at least one thousand seven hundred fifty (1,750) of such jobs must be created not later than June 1, 2015, and the remainder of the jobs must be created not later than June 1, 2017. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxi) Any enterprise owning or operating an automotive manufacturing and assembly plant and its affiliates for which construction begins after March 2, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Five Hundred Million Dollars ($500,000,000.00) which will create at least one thousand five hundred (1,500) jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxii) Any enterprise owning or operating a major powertrain component manufacturing and assembly plant for which construction begins after May 11, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Three Hundred Million Dollars ($300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxiii) Any biological and agricultural defense project operated by an agency of the government of the United States with an initial capital investment of not less than Four Hundred Fifty Million Dollars ($450,000,000.00) from any source other than the State of Mississippi and its subdivisions, which will create at least two hundred fifty (250) new

full-time jobs. All jobs created by the project must be held by persons eligible for employment in the United States under applicable state and federal law.

(xxiv) Any enterprise owning or operating an existing tire manufacturing plant which adds to such plant capital assets of not less than Twenty-five Million Dollars ($25,000,000.00) after January 1, 2009, and that maintains at least one thousand two hundred (1,200) full-time jobs in this state at one (1) location with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars ($45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxv) Any enterprise owning or operating a facility for the manufacture of composite components for the aerospace industry which will have an investment from private sources of not less than One Hundred Seventy-five Million Dollars ($175,000,000.00) by not later than December 31, 2015, and which will result in the full-time employment at the project site of not less than two hundred seventy-five (275) persons by December 31, 2011, and not less than four hundred twenty-five (425) persons by December 31, 2013, and not less than eight hundred (800) persons by December 31, 2017, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Fifty-three Thousand Dollars ($53,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvi) Any enterprise owning or operating a facility for the manufacture of pipe which will have an investment from any source other than the State of Mississippi and its subdivisions of not less than Three Hundred Million Dollars ($300,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-two Thousand Dollars ($32,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the

funds provided by the state for the project as determined by the authority shall be repaid.

(xxvii) Any enterprise owning or operating a facility for the manufacture of solar panels which will have an investment from any source other than the State of Mississippi and its subdivisions of not less than One Hundred Thirty-two Million Dollars ($132,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-four Thousand Dollars ($34,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxviii)1. Any enterprise owning or operating an automotive parts manufacturing plant and its affiliates for which construction begins after June 1, 2013, and not later than June 30, 2014, with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred ten percent (110%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

a. The minimum requirements for the project provided for in this subparagraph shall be met; and

b. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

2. It is anticipated that the project defined in this subparagraph (xxviii) will expand in three (3) additional phases, will create an additional five hundred (500) full-time jobs meeting the above criteria in each phase, and will invest an additional Three Hundred Million Dollars ($300,000,000.00) per phase.

(xxix) Any enterprise engaged in the manufacture of tires or other related rubber or automotive products for which construction of a plant

begins after January 1, 2016, and is substantially completed no later than December 31, 2022, and for which such enterprise commits to an aggregate capital investment by such enterprise and its affiliates of not less than One Billion Four Hundred Fifty Million Dollars ($1,450,000,000.00) and the creation thereby of at least two thousand five hundred (2,500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual salary or wage, excluding the value of any benefits which are not subject to Mississippi income tax, of such jobs shall be at least Forty Thousand Dollars ($40,000.00). The authority shall require that binding commitments be entered into requiring that:

1. Minimum requirements for investment and jobs for the project shall be met; and

2. If such requirements are not met, all or a portion of the funds provided by the state for the project may, as determined by the authority, be subject to repayment by such enterprise and/or its affiliates, together with any penalties or damages required by the authority in connection therewith.

(xxx) Any enterprise owning or operating a maritime fabrication and assembly facility for which construction begins after February 1, 2016, and concludes not later than December 31, 2018, with an initial capital investment in land, buildings and equipment not less than Sixty-eight Million Dollars ($68,000,000.00) and will create not less than one thousand (1,000) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Forty Thousand Dollars ($40,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. If such commitments are not met, all or a portion of the funds provided by the state for the project may, as determined by the authority, be subject to repayment by such enterprise, together with any penalties or damages required by the authority in connection therewith.

(g)(i) "Project area" means the project site, together with any area or territory within the state lying within sixty-five (65) miles of any portion of the project site whether or not such area or territory be contiguous; however, for the project defined in paragraph (f)(iv) of this section the term "project area" means any area or territory within the state. The project area shall also include all territory within a county if any portion of such county lies within sixty-five (65) miles of any portion of the project site.

"Project site" means the real property on which the principal facilities of the enterprise will operate. The provisions of this subparagraph (i) shall not apply to a project as defined in paragraph (f)(xxi) of this section.

(ii) For the purposes of a project as defined in paragraph (f)(xxi) of this section, the term "project area" means the acreage authorized in the certificate of convenience and necessity issued by the Mississippi Development Authority to a regional economic development alliance under Section 57-64-1 et seq.

(h) "Public agency" means:

(i) Any department, board, commission, institution or other agency or instrumentality of the state;

(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district or any other public entity created or existing under local and private legislation;

(iii) Any department, commission, agency or instrumentality of the United States of America; and

(iv) Any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(i) "State" means State of Mississippi.

(j) "Fee-in-lieu" means a negotiated fee to be paid by the project in lieu of any franchise taxes imposed on the project by Chapter 13, Title 27, Mississippi Code of 1972. The fee-in-lieu shall not be less than Twenty-five Thousand Dollars ($25,000.00) annually. A fee-in-lieu may be negotiated with an enterprise operating an existing project defined in paragraph (f)(iv)1 of this section; however, a fee-in-lieu shall not be negotiated for other existing enterprises that fall within the definition of the term "project."

(k) "Affiliate" means a subsidiary or related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in paragraph (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix) of this section. The subsidiary or related business must provide services directly related to the core activities of the project.

(*l*) "Tier One supplier" means a supplier of a project as defined in paragraph (f)(xxi) of this section that is certified by the enterprise owning the project and creates a minimum of fifty (50) new full-time jobs.

**HISTORY: Laws, 1989, ch. 534, § 3; Laws, 1991, ch. 584, § 3; Laws, 1993, ch. 305, § 1; Laws, 1993, ch. 570, § 1; Laws, 1994, ch. 420, § 1; Laws, 1995, ch. 576, § 1; Laws, 1996, ch. 508, § 1; Laws, 1996, ch. 554, § 1; Laws, 1997, ch. 585, § 1; Laws, 2000, 2nd Ex Sess, ch. 1, § 42; Laws, 2000, 3rd Ex Sess, ch. 1, § 6; Laws, 2002, ch. 541, § 6; Laws, 2002, 1st Ex Sess, ch. 2, § 1; Laws, 2003, ch. 3, § 2; Laws, 2003, ch. 326, § 2; Laws, 2003, ch. 513, § 2; Laws, 2004, ch. 507, § 1; Laws, 2004, ch. 572, § 54; Laws, 2004, 3rd Ex Sess., § 91; Laws, 2005, ch. 315, § 1; Laws, 2006, ch. 538, § 7; Laws, 2006, 1st Ex Sess, ch. 2, § 1; Laws, 2007, ch. 303, § 1; Laws, 2007, 1st Ex Sess, ch. 1, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 54; Laws, 2008, 1st Ex Sess, ch. 45, § 1; Laws, 2009, ch. 302, § 1; Laws,**

**2009, ch. 303, § 1; Laws, 2009, ch. 464, § 1; Laws, 2010, ch. 301, § 1; Laws, 2010, ch. 405, § 1; reenacted without change, Laws, 2010, ch. 559, § 54; reenacted without change, Laws, 2011, ch. 471, § 55; reenacted without change, Laws, 2012, ch. 515, § 54; Laws, 2013, 1st Ex Sess, ch. 1, § 1; Laws, 2016, 1st Ex Sess, ch. 1, § 1; reenacted without change, Laws, 2019, ch. 451, § 54, eff from and after April 3, 2019.**

**Editor's Notes —** Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, as amended by Laws of 2012, ch. 515, § 58, as amended by Laws of 2019, ch. 451, § 58, and as amended by Laws of 2020, ch. 476, § 7, provides:

"SECTION 60. Sections 8 through 59 of this act shall stand repealed on July 1, 2023."

**Amendment Notes —** The 2016 1st Extraordinary Session amendment added (f)(xxix) and (xxx); and in (k), inserted "or paragraph (f)(xxix)" and made related stylistic changes.

The 2019 amendment, effective April 3, 2019, reenacted the section without change.

**Cross References —** Exemption of indebtedness incurred through a loan to a municipality under § 57-75-11(tt) in connection with a project defined in subsection (f)(xxvii) of this section from limitations on indebtedness, see § 21-33-303.

## § 57-75-9. Action by authority on behalf of state; cooperation of public agencies with authority; contracts by authority or public agency.

(1) The authority is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for any project eligible for assistance under this act. The authority is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the project within the state, including the negotiation of a fee-in-lieu. If the state is selected as the preferred site for the project, the authority is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project, with the concurrence of the affected public agency. The authority may take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected as the preferred site, to coordinate fully, with the concurrence of the affected public agency, the development of the project or any facility related to the project with private business, the United States government and other public agencies. All public agencies are encouraged to cooperate to the fullest extent possible to effectuate the duties of the authority; however, the development of the project or any facility related to the project by the authority may be done only with the concurrence of the affected public agency.

(2)(a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(iv)1 or any facility related to the project shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be

in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(c) The enterprise involved with the project may, upon approval of the authority, negotiate such contracts in the name of the authority.

(d) The provisions of this subsection (2) shall not apply to contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project as defined in Section 57-75-5(f)(iv)1 and such contracts may be entered into pursuant to subsection (3) of this section.

(3)(a) Contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project defined in Section 57-75-5(f)(iv)1 shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority shall advertise for a period of time to be set by the authority, but in no event less than one (1) business day, the date, time and place of a meeting with the authority to receive specifications on a request for proposals on excavation, fill dirt and compaction for the preparation of the site of the project defined in Section 57-75-5(f)(iv)1.

(ii) The authority shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority concerning the selection of the contractor shall be final.

(b) Contracts by the authority or a public agency for site preparation, utilities, real estate improvements, wastewater or for public works for a project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority or the public agency shall advertise for a period of time to be set by the authority or the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the authority or the public agency to receive specifications on the preparation of the site of the project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii).

(ii) The authority or the public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority or the public agency shall, in its discretion, select one or more of the qualified contractors with whom to

negotiate or award the contract. The decision of the authority or the public agency concerning the selection of the contractor shall be final.

(c) Contracts by a public agency for site preparation, utilities, real estate improvements, infrastructure, roads or for public works for a project defined in Section 57-75-5(f)(xxiii), Section 57-75-5(f)(xxix) or Section 57-75-5(f)(xxx) may be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of contracts:

(i) The public agency shall advertise for a period of time to be set by the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the public agency to receive specifications on site preparation, utilities, real estate improvements, infrastructure, roads or for public works related to the project defined in Section 57-75-5(f)(xxiii), Section 57-75-5(f)(xxix) or Section 57-75-5(f)(xxx).

(ii) The public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the public agency shall, in its discretion, which discretion may include participation by an enterprise involved in the project, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the public agency concerning selection of the contractor shall be final.

(4)(a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(xxvi), Section 57-75-5(f)(xxvii), Section 57-75-5(f)(xxviii), Section 57-75-5(f)(xxix) or Section 57-75-5(f)(xxx) shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation with the authority or such public agency, and the authority or such public agency may, as part of such negotiations, further negotiate and require the level of participation by the enterprise involved in the project in the negotiation of such contracts.

(c) The company shall make commercially reasonable efforts to place out for bid, such that Mississippi Contractors and Mississippi Disadvantaged Business Enterprises ("DBEs") shall have an equal opportunity to respond to such bid, any contract by the company which (i) is subject to tax

pursuant to Mississippi Code Section 27-65-21 (i.e., contracts for constructing, building, erecting, grading, excavating, etc.), and (ii) will be paid, or payment thereunder by the company will be reimbursed, using any portion of the grant proceeds or funds provided by the authority to the company in accordance with this agreement. In carrying out such efforts, in order to increase the pool of qualified DBE bidders, the company will request that successful prime contract bidders include in their response a commitment to (a) participate in and/or host forums that highlight subcontract bidding opportunities for DBEs; and (b) work with various trade associations and the Mississippi Development Authority to promote increased participation from DBEs. With respect to awarding any contract placed out for bid, the company shall be allowed to award such contract in the company's sole discretion (e.g., based upon optimization of quality, cost and efficiency or on any other basis as the company may see fit). MDA agrees that it will offer to eligible contractor DBEs that have an opportunity to work on the project assistance through its Minority Surety Bond Guaranty Program.

**HISTORY: Laws, 1989, ch. 534, § 5; Laws, 2000, 2nd Ex Sess, ch. 1, § 43; Laws, 2000, 3rd Ex Sess, ch. 1, § 7; Laws, 2007, ch. 303, § 2; Laws, 2007, 1st Ex Sess, ch. 1, § 2; Laws, 2008, 1st Ex Sess, ch. 45, § 2; Laws, 2010, ch. 301, § 2; Laws, 2010, ch. 405, § 2; Laws, 2013, 1st Ex Sess, ch. 1, § 2; Laws, 2016, 1st Ex Sess, ch. 1, § 2, eff from and after passage (approved Feb. 8, 2016).**

**Amendment Notes —** The 2016 1st Extraordinary Session amendment inserted "Section 57-75-5(f)(xxix) or Section 57-75-5(f)(xxx)" in (3)(c), (3)(c)(i) and (4)(a); inserted "which discretion may include participation by an enterprised involved in the project" in (3)(c)(iii); added "with the authority . . . negotiation of such contracts" at the end of (4)(b)(ii); added (4)(c); and made minor stylistic changes.

## § 57-75-11. General powers and duties of authority.

The authority, in addition to any and all powers now or hereafter granted to it, is empowered and shall exercise discretion and the use of these powers depending on the circumstances of the project or projects:

(a) To maintain an office at a place or places within the state.

(b) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation.

(c) To make such applications and enter into such contracts for financial assistance as may be appropriate under applicable federal or state law.

(d) To apply for, accept and utilize grants, gifts and other funds or aid from any source for any purpose contemplated by the act, and to comply, subject to the provisions of this act, with the terms and conditions thereof.

(e)(i) To acquire by purchase, lease, gift, or in other manner, including quick-take eminent domain, or obtain options to acquire, and to own, maintain, use, operate and convey any and all property of any kind, real, personal, or mixed, or any interest or estate therein, within the project

area, necessary for the project or any facility related to the project. The provisions of this paragraph that allow the acquisition of property by quick-take eminent domain shall be repealed by operation of law on July 1, 1994; and

(ii) Notwithstanding any other provision of this paragraph (e), from and after November 6, 2000, to exercise the right of immediate possession pursuant to the provisions of Sections 11-27-81 through 11-27-89 for the purpose of acquiring land, property and/or rights-of-way in the county in which a project as defined in Section 57-75-5(f)(iv)1 is located, that are necessary for such project or any facility related to the project.

(f) To acquire by purchase or lease any public lands and public property, including sixteenth section lands and lieu lands, within the project area, which are necessary for the project. Sixteenth section lands or lieu lands acquired under this act shall be deemed to be acquired for the purposes of industrial development thereon and such acquisition will serve a higher public interest in accordance with the purposes of this act.

(g) If the authority identifies any land owned by the state as being necessary, for the location or use of the project, or any facility related to the project, to recommend to the Legislature the conveyance of such land or any interest therein, as the Legislature deems appropriate.

(h) To make or cause to be made such examinations and surveys as may be necessary to the planning, design, construction and operation of the project.

(i) From and after the date of notification to the authority by the enterprise that the state has been finally selected as the site of the project, to acquire by condemnation and to own, maintain, use, operate and convey or otherwise dispose of any and all property of any kind, real, personal or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project, with the concurrence of the affected public agency, and the exercise of the powers granted by this act, according to the procedures provided by Chapter 27, Title 11, Mississippi Code of 1972, except as modified by this act.

(i) Except as otherwise provided in subparagraph (iii) of this paragraph (i), in acquiring lands by condemnation, the authority shall not acquire minerals or royalties in minerals unless a competent registered professional engineer shall have certified that the acquisition of such minerals and royalties in minerals is necessary for purposes of the project; provided that limestone, clay, chalk, sand and gravel shall not be considered as minerals for the purposes of subparagraphs (i) and (ii) of this paragraph (i);

(ii) Unless minerals or royalties in minerals have been acquired by condemnation or otherwise, no person or persons owning the drilling rights or the right to share in production of minerals shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and egress, pipelines and other means of transporting interests on any land or interest therein of the authority held or used for

the purposes of this act; but any such activities shall be under such reasonable regulation by the authority as will adequately protect the project contemplated by this act as provided in paragraph (r) of this section; and

(iii) In acquiring lands by condemnation, including the exercise of immediate possession, for a project, as defined in Section 57-75-5(f)(iv)1, the authority may acquire minerals or royalties in minerals.

(j) To negotiate the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of this act.

(k) To negotiate the necessary relocation of graves and cemeteries and to pay all reasonable costs thereof.

(*l*) To perform or have performed any and all acts and make all payments necessary to comply with all applicable federal laws, rules or regulations including, but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651 to 4655) and relocation rules and regulations promulgated by any agency or department of the federal government.

(m) To construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate any and all components of the project or any facility related to the project, with the concurrence of the affected public agency, within the project area, necessary to the project and to the exercise of such powers, rights, and privileges granted the authority.

(n) To incur or defray any designated portion of the cost of any component of the project or any facility related to the project acquired or constructed by any public agency.

(o)(i) To lease, sell or convey any or all property acquired by the authority under the provisions of this act to the enterprise, its successors or assigns, and/or any entity for purposes in furtherance of economic development as determined by the authority, and in connection therewith to pay the costs of title search, perfection of title, title insurance and recording fees as may be required. The authority may provide in the instrument conveying such property a provision that such property shall revert to the authority if, as and when the property is declared by the transferee to be no longer needed.

(ii) To lease, sell, transfer or convey on any terms agreed upon by the authority any or all real and personal property, improvements, leases, funds and contractual obligations of a project as defined in Section 57-75-5(f) (vi) and conveyed to the State of Mississippi by a Quitclaim

Deed from the United States of America dated February 23, 1996, filed of record at pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office, Tishomingo County, Mississippi, to any governmental authority located within the geographic boundaries of the county wherein such project exists upon agreement of such governmental authority to undertake and assume from the State of Mississippi all obligations and responsibilities in connection with ownership and operation of the project. Property leased, sold, transferred or otherwise conveyed by the authority under this paragraph (o) shall be used only for economic development purposes.

(p) To enter into contracts with any person or public agency, including, but not limited to, contracts authorized by Section 57-75-17, in furtherance of any of the purposes authorized by this act upon such consideration as the authority and such person or public agency may agree. Any such contract may extend over any period of time, notwithstanding any rule of law to the contrary, may be upon such terms as the parties thereto shall agree, and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms. Such contracts may include an agreement to reimburse the enterprise, its successors and assigns for any assistance provided by the enterprise in the acquisition of real property for the project or any facility related to the project.

(q) To establish and maintain reasonable rates and charges for the use of any facility within the project area owned or operated by the authority, and from time to time, to adjust such rates and to impose penalties for failure to pay such rates and charges when due.

(r) To adopt and enforce with the concurrence of the affected public agency all necessary and reasonable rules and regulations to carry out and effectuate the implementation of the project and any land use plan or zoning classification adopted for the project area, including, but not limited to, rules, regulations, and restrictions concerning mining, construction, excavation or any other activity the occurrence of which may endanger the structure or operation of the project. Such rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project. The authority is authorized to plan or replan, zone or rezone, and make exceptions to any regulations, whether local or state, with the concurrence of the affected public agency which are inconsistent with the design, planning, construction or operation of the project and facilities related to the project.

(s) To plan, design, coordinate and implement measures and programs to mitigate impacts on the natural environment caused by the project or any facility related to the project.

(t) To develop plans for technology transfer activities to ensure private sector conduits for exchange of information, technology and expertise related to the project to generate opportunities for commercial development within the state.

(u) To consult with the State Department of Education and other public agencies for the purpose of improving public schools and curricula within the project area.

(v) To consult with the State Board of Health and other public agencies for the purpose of improving medical centers, hospitals and public health centers in order to provide appropriate health care facilities within the project area.

(w) To consult with the Office of Minority Business Enterprise Development and other public agencies for the purpose of developing plans for technical assistance and loan programs to maximize the economic impact related to the project for minority business enterprises within the State of Mississippi.

(x) To deposit into the "Yellow Creek Project Area Fund" created pursuant to Section 57-75-31:

(i) Any funds or aid received as authorized in this section for the project described in Section 57-75-5(f)(vi), and

(ii) Any funds received from the sale or lease of property from the project described in Section 57-75-5(f)(vi) pursuant to the powers exercised under this section.

(y) To manage and develop the project described in Section 57-75-5(f)(vi).

(z) To promulgate rules and regulations necessary to effectuate the purposes of this act.

(aa) To negotiate a fee-in-lieu with the owners of the project.

(bb) To enter into contractual agreements to warrant any site work for a project defined in Section 57-75-5(f)(iv)1; provided, however, that the aggregate amount of such warranties shall not exceed Fifteen Million Dollars ($15,000,000.00).

(cc) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(iv)1 in an amount not to exceed Thirty-nine Million Dollars ($39,000,000.00).

(dd)(i) To own surface water transmission lines constructed with the proceeds of bonds issued pursuant to this act and in connection therewith to purchase and provide water to any project defined in Section 57-75-5(f)(iv) and to certificated water providers; and

(ii) To lease such surface water transmission lines to a public agency or public utility to provide water to such project and to certificated water providers.

(ee) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(v) or, in connection with a facility related to such a project, for job training, recruiting and infrastructure.

(ff) To enter into negotiations with persons proposing projects defined in Section 57-75-5(f)(xi) and execute acquisition options and conduct planning, design and environmental impact studies with regard to such project.

(gg) To establish such guidelines, rules and regulations as the authority may deem necessary and appropriate from time to time in its sole discretion, to promote the purposes of this act.

(hh) In connection with projects defined in Section 57-75-5(f)(ii):

(i) To provide grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii) in amounts not to exceed the amount authorized in Section 57-75-15(3)(b);

(ii) To supervise the use of all such grant funds or loans; and

(iii) To requisition money in the Mississippi Major Economic Impact Authority Revolving Loan Fund in connection with such loans.

(ii) In connection with projects defined under Section 57-75-5(f)(xiv):

(i) To provide grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv); however, the aggregate amount of any such loans under this paragraph (ii) shall not exceed Eighteen Million Dollars ($18,000,000.00) and the aggregate amount of any such grants under this paragraph (ii) shall not exceed Six Million Dollars ($6,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(jj) In connection with projects defined under Section 57-75-5(f)(xviii):

(i) To provide grant funds of Twenty-five Million Dollars ($25,000,000.00) to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) to be used for real estate improvements and which may be disbursed as determined by the authority;

(ii) To provide loans to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) or make payments to a lender providing financing to the enterprise; subject to the following provisions:

1. Not more than Ten Million Dollars ($10,000,000.00) may be loaned to such an enterprise for the purpose of defraying costs incurred by the enterprise for site preparation and real property improvements during the construction of the project in excess of budgeted costs; however, the amount of any such loan shall not exceed fifty percent (50%) of such excess costs;

2. Not more than Sixty Million Dollars ($60,000,000.00) may be loaned to such an enterprise or paid to a lender providing financing to the enterprise for purposes determined appropriate by the authority, and the enterprise shall be obligated to repay the amount of the loan or payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(p); however, no such loan or payment may be made before the beginning of the fifth year after issuance by the enterprise of debt in like amount the proceeds of which are to be used in connection with the project;

(iii) To supervise the use of all such loan funds;

(iv) Loans under this paragraph (jj) may be for any term determined appropriate by the authority provided that the payments on any loan must

be in an amount sufficient to pay the state's debt service on bonds issued for the purpose of providing funds for such a loan; and

(v) The repayment obligation of the enterprise for any loan or payment authorized under this paragraph (jj) shall, in the discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(kk) In connection with projects defined in Section 57-75-5(f)(xxi) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies, Itawamba Community College, Northeast Mississippi Community College, and/or East Mississippi Community College, public or private nonprofits or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxi) for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(s);

(ii) To supervise the use of all such grant funds so reimbursed; and

(iii) To enter into contractual agreements to warrant site preparation and availability for a project defined in Section 57-75-5(f)(xxi).

(*ll*) In connection with a project related to a Tier One supplier:

(i) To provide grant funds to reimburse public agencies, public or private nonprofits and Tier One suppliers for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(t);

(ii) To supervise the use of all such grant funds so reimbursed.

(mm) In connection with projects defined in Section 57-75-5(f)(xxii) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxii) for site preparation, real estate improvements, utilities, fire protection, wastewater, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(u); and

(ii) To supervise the use of all such grant funds so reimbursed.

(nn) It is the policy of the authority and the authority is authorized to accommodate and support any enterprise owning or operating a project defined in Section 57-75-5(f)(xviii), 57-75-5(f)(xxi), 57-75-5(f)(xxii), 57-75-5(f)(xxvi), 57-75-5(f)(xxvii), 57-75-5(f)(xxviii), 57-75-5(f)(xxix) or 57-75-5(f)(xxx) or an enterprise developing or owning a project defined in Section 57-75-5(f)(xx), that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under

Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this paragraph.

(oo) To provide grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx) for reimbursement of costs incurred by such enterprise for infrastructure improvements in the initial phase of development of the project, upon dedication of such improvements to the appropriate public agency.

(pp) In connection with projects defined in Section 57-75-5(f) (xxiii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project as defined in Section 57-75-5(f) (xxiii) for site preparation, utilities, real estate improvements, infrastructure, roads, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(v); and

(ii) To supervise the use of all such grant funds so reimbursed.

(qq)(i) To provide grant funds for the expansion of a publicly owned building for the project defined in Section 57-75-5(f)(xxiv) or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xxiv) for the purchase and/or relocation of equipment, or for any other purpose related to the project as approved by the authority; however, the aggregate amount of any such loans under this paragraph (qq) shall not exceed Six Million Dollars ($6,000,000.00) and the aggregate amount of any such grants under this paragraph (qq) shall not exceed Seven Million Dollars ($7,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed ten (10) years as may be determined by the authority, shall bear a rate of interest to be determined by the authority, and shall be secured in an amount and a manner as may be determined by the authority.

(rr)(i) To provide grant funds to an enterprise owning or operating a project defined in Section 57-75-5(f)(xxv) for reimbursement of costs incurred by the enterprise in reconfiguring the manufacturing plant and for the purchase of equipment, or for any other purpose related to the project as approved by the authority;

(ii) To supervise the use of all such grant funds.

(ss) In connection with projects defined under Section 57-75-5(f)(xxvi):

(i) To provide grant funds and/or loans to a public agency in an amount not to exceed Fifteen Million Dollars ($15,000,000.00) for the construction of a publicly owned building to be leased by the enterprise owning or operating the project;

(ii) To provide loan guarantees in an amount not to exceed the total cost of the project for which financing is sought or Twenty Million Dollars ($20,000,000.00), whichever is less, for the purpose of encouraging the

extension of conventional financing and the issuance of letters of credit to the enterprise owning or operating the project;

(iii) In connection with any loan guarantee made pursuant to this paragraph, to make payments to lenders providing financing to the enterprise owning or operating the project and the enterprise shall be obligated to repay the amount of the payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(y);

(iv) To supervise the use of all such grant funds, loan funds or payments; and

(v) To require the enterprise owning or operating the project to provide security for the repayment obligation for any loan guarantee authorized under this paragraph in an amount and in a manner as may be determined by the authority.

(tt) In connection with projects defined under Section 57-75-5(f)(xxvii):

(i) To provide loans to a public agency in an amount not to exceed Fifty Million Dollars ($50,000,000.00) for the construction of a publicly owned building and acquisition of equipment to be leased by the enterprise owning or operating the project; and

(ii) To supervise the use of all such loan funds.

(uu) In connection with projects defined under Section 57-75-5(f)(xxviii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project for site preparation, utilities, real estate purchase and improvements, infrastructure, roads, rail improvements, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(aa);

(ii) To supervise the use of all such grant funds so reimbursed.

(vv) In connection with projects defined under Section 57-75-5(f)(xxix):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or an enterprise operating a project for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruitment and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(bb);

(ii) To provide loans to public agencies for site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, buildings and fixtures, job recruiting and training, as well as planning, design, environmental mitigation and environmental impact studies with respect to a project, and any other purposes approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(bb);

(iii) To supervise the use of all such grant funds so reimbursed and/or loans so made; and

(iv) To the extent that the authority enters into any construction or similar contract for site preparation work or for the construction of any improvements on a project site, to assign or otherwise transfer to an enterprise or affiliate thereof that owns or operates such a project on such project site any and all contractual, express or implied warranties of any kind arising from such contract or work performed or materials purchased in connection therewith, and cause any such contract to contain terms and provisions designating such enterprise as a third-party beneficiary under the contract.

(ww) In connection with projects defined under Section 57-75-5(f)(xxx):

(i) To provide grant funds to reimburse or otherwise defray the costs incurred by public agencies or an enterprise operating a project for public infrastructure needs, site preparation, building improvements, purchase of launch systems, recruitment of employees to fill new full-time jobs, providing internal company training and train prospective, new and existing employees of the enterprise associated with the project, including training of company employees who will utilize such instruction to teach other prospective, new and existing employees of the company and other workforce expenses and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(cc); and

(ii) To supervise the use of all such grant funds so reimbursed.

(xx)(i) In addition to any other requirements or conditions under this chapter, the authority shall require that any application for assistance regarding a project under this chapter include, at a minimum:

1. A two-year business plan (which shall include pro forma balance sheets, income statements and monthly cash flow statements);

2. Financial statements or tax returns for the three (3) years immediately prior to the application (if the project is a new company or enterprise, personal financial statements or tax returns will be required);

3. Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the project;

4. Data supporting the expertise of the project's principals;

5. A cost-benefit analysis of the project performed by a state institution of higher learning or other entity selected by the authority; and

6. Any other information required by the authority.

(ii) The authority shall require that binding commitments be entered into requiring that:

1. The applicable minimum requirements of this chapter and such other requirements as the authority considers proper shall be met; and

2. If the agreed upon commitments are not met, all or a portion of the funds provided under this chapter as determined by the authority shall be repaid.

(iii) Where appropriate, in the discretion of the authority, the author-

ity shall acquire a security interest in or other lien upon any applicable collateral.

(iv) The provisions of this paragraph (xx) shall not apply to a project defined in Section 57-75-5(f)(xxiii).

**HISTORY: Laws, 1989, ch. 534, § 6; Laws, 1993, ch. 305, § 2; Laws, 1996, ch. 554 § 2; Laws, 2003, ch. 326, § 3; Laws, 2003, ch. 441, § 1; Laws, 2003, ch. 513, § 3; Laws, 2004, 3rd Ex Sess., ch. 1, § 92; Laws, 2005, ch. 315, § 2; Laws, 2005, 4th Ex Sess, ch. 1, § 1; Laws, 2005, 5th Ex Sess, ch. 1, § 1; Laws, 2006, 1st Ex Sess, ch. 2, § 2; Laws, 2007, ch. 303, § 3; Laws, 2007, 1st Ex Sess, ch. 1, § 3; Laws, 2008, 1st Ex Sess, ch. 45, § 3; Laws, 2009, ch. 302, § 2; Laws, 2009, ch. 303, § 2; Laws, 2010, ch. 301, § 3; Laws, 2010, ch. 405, § 3; Laws, 2012, ch. 438, § 1; Laws, 2013, 1st Ex Sess, ch. 1, § 3; Laws, 2016, 1st Ex Sess, ch. 1, § 3, eff from and after passage (approved Feb. 8, 2016).**

**Amendment Notes** — The 2016 1st Extraordinary Session amendment, in (nn), inserted "57-75-5(f)(xxix) or 57-75-5(f)(xxx)" and made a related stylistic change; added (vv) and (ww); redesignated former (vv) as (xx); and substituted "this paragraph (xx)" for "this paragraph (vv)" in (xx)(iv).

**Cross References** — Exemption of indebtedness incurred through a loan to a municipality under subsection (tt) of this section in connection with a project defined in § 57-75-5(f)(xxvii) from limitations on indebtedness, see § 21-33-303.

## § 57-75-15. Powers and duties of State Bond Commission.

**[Through June 30, 2022, this section shall read as follows:]**

(1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter, from time to time, declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3)(a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars ($67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Seventy-seven Million

Dollars ($77,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section 57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars ($351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars ($38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars ($4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars

($33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars ($3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(*l*) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars ($24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars ($2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars ($500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred Thousand Dollars ($3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars ($96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars ($15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars ($23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars ($293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars ($30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars ($48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hundred Fifty Thousand Dollars ($88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars ($13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars ($25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars ($35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed Fifty Million Dollars ($50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed One Hundred Thirty Million Dollars ($130,000,000.00). No bonds shall be issued under this paragraph after July 1, 2023.

(bb) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxix) shall not exceed Two Hundred Sixty-three Million Dollars ($263,000,000.00). No bonds shall be issued under this paragraph after July 1, 2034.

(cc) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxx) shall not exceed Eleven Million Dollars ($11,000,000.00). No bonds shall be issued under this paragraph after July 1, 2025.

(4)(a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, reha-

bilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) and (m) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an

enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants and loans for projects as authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss);

(xxii) Providing grants and loans as authorized in Section 57-75-11(tt); and

(xxiii) Providing grants as authorized in Section 57-75-11(ww) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate.

Such bonds shall be issued, from time to time, and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b)(i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (b)(i) shall not exceed Three Hundred Thousand Dollars ($300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to

reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c)(i) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to the project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project.

(ii) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to the project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the

manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If the bonds are to be sold on sealed bids at public sale, notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson, Mississippi, selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for

such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17)(a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact

Authority Sinking Fund unless the State Bond Commission, at the request of the authority, shall determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans authorized in Section 57-75-11(jj) or Section 57-75-11(vv) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(18)(a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi) or Section 57-75-5(f)(xxix). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars ($500,000.00) at any one time.

**[From and after July 1, 2022, this section shall read as follows:]**

(1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter, from time to time, declare the necessity for the issuance of general obligation

bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3)(a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars ($67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Seventy-seven Million Dollars ($77,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section 57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars ($351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars ($38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars

($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars ($4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars ($33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars ($3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(*l*) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars ($24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars ($2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars ($500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred

Thousand Dollars ($3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars ($96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2016.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars ($15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars ($23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars ($293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars ($30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars ($48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hundred Fifty Thousand Dollars ($88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars ($13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars ($25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars ($35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed Fifty Million Dollars ($50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed One Hundred Thirty

Million Dollars ($130,000,000.00). No bonds shall be issued under this paragraph after July 1, 2023.

(bb) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxix) shall not exceed Two Hundred Sixty-three Million Dollars ($263,000,000.00). No bonds shall be issued under this paragraph after July 1, 2034.

(cc) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxx) shall not exceed Eleven Million Dollars ($11,000,000.00). No bonds shall be issued under this paragraph after July 1, 2025.

(4)(a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accoun-

tants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b), (c), (d), (e) and (f) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants and loans for projects as authorized in Section 57-75-11(kk), (ll), (mm), (uu), (vv) or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss);

(xxii) Providing loans as authorized in Section 57-75-11(tt); and

(xxiii) Providing grants as authorized in Section 57-75-11(ww) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate.

Such bonds shall be issued, from time to time, and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b)(i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (b)(i) shall not exceed Three Hundred Thousand Dollars ($300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c)(i) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to the project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project.

(ii) Except as otherwise provided in this subsection, the proceeds of bonds issued under this section for a project described in Section 57-75-5(f) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to the project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds on sealed bids at public sale, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually; provided that the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson, Mississippi, selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17)(a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two

(2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund unless the State Bond Commission, at the request of the authority, shall determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans authorized in Section 57-75-11(jj) or Section 57-75-11(vv) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(18)(a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi) or Section 57-75-5(f)(xxix). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars ($500,000.00) at any one time.

**HISTORY: Laws, 1989, ch. 534, § 8; Laws, 1990, ch. 570, § 13; Laws, 1991, ch. 584, § 4; Laws, 1993, ch. 305, § 3; Laws, 1993, ch. 570, § 2; Laws, 1994, ch. 420, § 2; Laws, 1995, ch. 576, § 2; Laws, 1996, ch. 508, § 2; Laws, 1996, ch. 554, § 5; Laws, 1997, ch. 585, § 2; Laws, 2000, ch. 584, § 6; Laws, 2000, 2nd Ex Sess, ch. 1, § 45; Laws, 2000, 3rd Ex Sess, ch. 1, § 9; Laws, 2001, ch. 449, § 1; Laws, 2002, ch. 541, § 7; Laws, 2002, 1st Ex Sess, ch. 2, § 3; Laws, 2003, ch. 3, § 3; Laws, 2003, ch. 326, § 4; Laws, 2003, ch. 513, § 4; Laws, 2004, ch. 484, § 1; Laws, 2004, ch. 507, § 2; Laws, 2004, 3rd Ex Sess, ch. 1, § 93; Laws, 2005, ch. 315, § 3; Laws, 2005, ch. 521, § 3; Laws, 2005, 4th Ex Sess, ch. 1, § 2; Laws, 2005, 5th Ex Sess, ch. 1, § 2; Laws, 2006, ch. 538, § 8; Laws, 2006, 1st Ex Sess, ch. 2, § 3; Laws, 2007, ch. 303, § 4; Laws, 2007, 1st Ex Sess, ch. 1, § 4; Laws, 2008, 1st Ex Sess, ch. 45, § 4; Laws, 2009, ch. 302, § 3; Laws, 2009, ch. 303, § 3; Laws, 2009, ch. 464, § 2; Laws, 2010, ch. 301, § 4; Laws, 2010, ch. 405, § 4; Laws, 2011, ch. 431, § 1; Laws, 2013, ch. 567, § 1; Laws, 2013, ch. 569, § 34; Laws, 2013, 1st Ex Sess, ch. 1, § 4; brought forward without change by Laws, 2014, ch. 427, § 4; Laws, 2014, ch. 500, § 1; Laws, 2016, 1st Ex Sess, ch. 1, § 4; Laws, 2016, ch. 511, § 18; Laws, 2017, ch. 390, § 7, eff from and after July 1, 2017; Laws, 2018, ch. 412, § 4, eff from and after July 1, 2018; Laws, 2019, ch. 421, § 6, eff from and after July 1, 2019; Laws, 2020, ch. 492, § 9, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Amendment Notes —** The 2016 1st Extraordinary Session amendment (ch. 1), effective February 8, 2016, in both versions of the section, added (3)(bb) and (cc); in (4), inserted "and loans" and "(vv)" in (a)(xvii), added (a)(xxiii), in (c)(i) and (ii), added the exception at the beginning, substituted "section for a project described in Section 57-75-5(f) may" for "section for projects described in Section 57-75-5(f)(ix) may" in the first sentence, and substituted "for each project" for "in the aggregate" at the end of the last sentence of (c)(i) and the next-to-last sentence of (c)(ii); deleted former (4)(d) through (4)(n), which related to the use of bonds for projects described in paragraphs (f)(x), (f)(xii) through (f)(xviii), and (f)(xx) through (f)(xxviii) of Section 57-75-5; inserted "Mississippi" near the end of the second paragraph of (7); inserted "or Section 57-75-11(vv)" in (17)(f); inserted "or Section 57-75-5(f)(xxix)" in (18)(b); and made minor stylistic changes.

The 2016 Regular Session amendment (ch. 511), which amended this section as amended by Chapter 1, 2016 1st Extraordinary Session, effective July 1, 2016, substituted "Sixty-seven Million Dollars ($67,000,000.00)" for "Sixty-three Million Dollars ($63,000,000.00)" in (3)(b) in both versions of the section.

The 2017 amendment, in both versions of the section, substituted "Sixty-eight Million Dollars ($68,000,000.00)" for "Sixty-seven Million Dollars ($67,000,000.00)" at the end of the first sentence of (3)(b), and made minor stylistic changes.

The 2018 amendment, in the first version of the section, substituted "June 30, 2022" for "June 30, 2018" in the bracketed effective date language, and substituted "Seventy-one Million Dollars ($71,000,000.00)" for "Sixty-eight Million Dollars ($68,000,000.00)" in (3)(b); and in the second version of the section, substituted "July 1, 2022" for "July 1, 2018" in the bracketed effective date language, and "Seventy-one Million Dollars ($71,000,000.00)" for "Sixty-eight Million Dollars ($68,000,000.00)" in (3)(b).

The 2019 amendment, in both versions of the section, substituted "Seventy-four Million Dollars ($74,000,000.00)" for "Seventy-one Million Dollars ($71,000,000.00)" in

(3)(b).

The 2020 amendment, effective July 9, 2020, made identical amendments in both versions of the section, and substituted "Seventy-seven Million Dollars ($77,000,000.00)" for "Seventy-four Million Dollars ($74,000,000.00)" in (3)(b).

## § 57-75-17. Powers and duties of public agencies; provision in contracts or agreements between authority and public agency for payment of indebtedness; proceedings upon failure of public agency to pay indebtedness.

(1) For the purpose of aiding in the planning, design, undertaking and carrying out of the project or any facility related to the project, any public agency is authorized and empowered upon such terms, with or without consideration, as it may determine:

(a) To enter into agreements, which may extend over any period, with the authority respecting action to be taken by such public agency with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility, and which agreements may include:

(i) The appropriation or payment of funds to the authority or to a trustee in amounts which shall be sufficient to enable the authority to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating, and maintaining the project or any facility related to the project,

(ii) The appropriation or payment of funds to the authority or to a trustee to pay interest and principal (whether at maturity or upon sinking fund redemption) on bonds of the authority issued pursuant to this act and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and to fulfill requirements of any covenant with respect to debt service contained in any resolution, trust indenture or other security agreement relating to the bonds of the authority issued pursuant to this act,

(iii) The furnishing of other assistance in connection with the project or facility related to the project, and

(iv) The borrowing of money from the authority in connection with a project defined in Section 57-75-5(f)(ii);

(b) To dedicate, sell, donate, convey or lease any property or interest in property to the authority or grant easements, licenses or other rights or privileges therein to the authority;

(c) To incur the expense of any public improvements made or to be made by such public agency in exercising the powers granted in this section;

(d) To lend, grant or contribute funds to the authority;

(e) To cause public buildings and public facilities, including parks, playgrounds, recreational areas, community meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished to or with respect to the project or any such facility;

(f) To furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads, or ports;

(g) To plan or replan, zone or rezone any parcel of land within the public agency or make exceptions from land use, building and zoning regulations;

(h) To cause administrative and other services to be furnished to the authority, including services pertaining to the acquisition of real property and the furnishing of relocation assistance; and

(i) To loan to the owner, lessee or operator of any project defined in Section 57-75-5(f)(ii) the proceeds of any loan from the authority to the public entity under the provisions of this act.

(2) Any contract between a public agency entered into with the authority pursuant to any of the powers granted by this act shall be binding upon said public agency according to its terms, and such public agency shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of such public agency. Such contracts may include within the discretion of such governing authorities of public agencies defined under Section 57-75-5(h)(ii) a pledge of the full faith and credit of such public agency or any other lawfully available funds for the performance thereof. If at any time title to or possession of the project or any such facility is held by any public body or governmental agency other than the authority, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

(3) Notwithstanding any provisions of this act to the contrary, any contract entered into between the authority and any public agency for the appropriation or payment of funds to the authority under item (a)(ii) or (a)(iv) of this section shall contain a provision therein requiring periodic payments by the public agency as required by the authority to pay its indebtedness and, if the public agency is not a county or municipality, such contract shall include as an additional party to the contract the county or municipality (referred to in this paragraph as "levying authority") that levies and collects taxes for the contracting public agency. If the public agency fails to pay its indebtedness for any month, the authority shall certify to the Department of Revenue, or other appropriate agency, the amount of the delinquency, and the Department of Revenue shall deduct such amount from the public agency's or levying authority's, as the case may be, next allocation of sales taxes, petroleum taxes, highway privilege taxes, severance taxes, Tennessee Valley Authority payments in lieu of taxes and homestead exemption reimbursements in that order of priority. The Department of Revenue, or other appropriate agency, shall pay the sums so deducted to the authority to be applied to the discharge of the contractual obligation.

(4) Notwithstanding any provision of this act to the contrary, all loans made pursuant to Section 57-75-11(hh) and this section shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole

discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(5)(a) Before authorizing any loan to a public agency defined in Section 57-75-5(h)(ii), a local governmental unit, the governing authority of such local governmental unit in connection with a project defined in Section 57-75-5(f)(ii), shall adopt a resolution declaring its intention so to do, stating the amount of the loan proposed to be authorized and the purpose for which the loan is to be authorized, and the date upon which the loan will be authorized. Such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such local governmental unit. The first publication of such resolution shall be made not less than twenty-one (21) days before the date fixed in such resolution for the authorization of the loan and the last publication shall be made not more than seven (7) days before such date. If no newspaper is published in such local governmental unit, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such local governmental unit and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such local governmental unit. If fifteen percent (15%) of the qualified electors of the local governmental unit or fifteen hundred (1500), whichever is the lesser, file a written protest against the authorization of such loan on or before the date specified in such resolution, then an election on the question of the authorization of such loan shall be called and held as otherwise provided for in connection with the issuance of general obligation indebtedness of such local governmental unit. Notice of such election shall be given as otherwise required in connection with the issuance of general obligation indebtedness of such local governmental unit. If three-fifths (⅗) of the qualified electors voting in the election vote in favor of authorizing the loan, then the governing authority of the local governmental unit shall proceed with the loan; however, if less than three-fifths (⅗) of the qualified electors voting in the election vote in favor of authorizing the loan, then the loan shall not be incurred. If no protest be filed, then such loan may be entered into by the local governmental unit without an election on the question of the authorization of such loan, at any time within a period of two (2) years after the date specified in the resolution. However, the governing authority of any local governmental unit, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to authorize such loan as provided in this subsection.

(b) Local governmental units may, in connection with any such loan, enter into any covenants and agreements with respect to such local governmental unit's operations, revenues, assets, monies, funds or property, or such loan, as may be prescribed by the authority.

(c) Upon the making of any such loan by the authority to any local governmental unit, such local governmental unit shall be held and be deemed to have agreed that if such governmental unit fails to pay the

principal of, premium, if any, and interest on any such loan as when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the authority, upon such nonpayment, shall thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstance, including without limitation any remedies or rights theretofore agreed to by the local governmental unit, and that such loan shall for all of the purposes of this section, be held and be deemed to have become due and payable and to be unpaid. The authority may carry out the provisions of this section and exercise all of the rights and other applicable laws of this state.

(d) This section shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized by this section and shall be deemed and construed to be supplemental to any power conferred by other laws on public agencies and not in derogation of any such powers. Any obligation incurred pursuant to the provisions of this section shall not constitute an indebtedness of the public agency within the meaning of any constitutional or statutory limitation or restriction. For purposes of this act, a public agency shall not be required to comply with the provisions of any other law except as provided in this section.

(6) Any public agency providing any utility service or services, to any project defined in Section 57-75-5(f)(iv)1 may enter into leases or subleases for any period of time not to exceed thirty (30) years, in the capacity as lessor or lessee or sublessor or sublessee of lands alone, or lands and facilities located thereon, whether the facilities are owned by the owner of the land, a lessee, sublessee or a third party, and whether the public agency is a lessor, lessee or owner of the land. Any such public agency may also enter into operating agreements and/or lease-purchase agreements with respect to land or utility facilities as owner, operator, lessor or lessee for any period of time not to exceed thirty (30) years. Any such public agency may also enter into contracts for the provision of utilities for any period of time not to exceed thirty (30) years and may set a special rate structure for such utilities.

(7)(a) No well shall be permitted by any public agency responsible for the conservation of oil and gas in the State of Mississippi to be drilled on or under a tract of land which is a part of a project owned or operated by an enterprise as defined in Section 57-75-5(f)(xxix) and which enterprise is a nonconsenting owner as defined in Section 53-3-7(1), which owns both the surface estate of said tract of land and also owns one hundred percent (100%) of the drilling rights in said tract of land.

(b) No mining activities on or under land which is part of a project as defined in Section 57-75-5(f)(xxix) shall be permitted by any public agency responsible for mining in the state without the consent of the enterprise owning or operating such project.

**HISTORY: Laws, 1989, ch. 534, § 9; Laws, 2000, 3rd Ex Sess, ch. 1, § 10; Laws, 2004 3rd Ex Sess, ch. 1, § 94; Laws, 2016, 1st Ex Sess, ch. 1, § 5, eff from and after passage (approved Feb. 8, 2016).**

**Amendment Notes** — The 2016 1st Extraordinary Session amendment substituted "Department of Revenue" for "State Tax Commission" three times in (3); and added (7).

## § 57-75-33. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that no taxes, fees or assessments will be levied upon the enterprise other than those generally levied upon all taxpayers; counties and municipalities authorized to enter into fee in lieu of ad valorem taxes agreements.

The board of supervisors of a county or the governing authorities of a municipality may each enter into an agreement with an enterprise operating a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii), Section 57-75-5(f)(xxviii) or Section 57-75-5(f)(xxix), providing that the county or municipality will not levy any taxes, fees or assessments upon the enterprise other than taxes, fees or assessments that are generally levied upon all taxpayers, or all other taxpayers in the taxing districts in which such project is located, and the board of supervisors or the governing authorities also may each enter into a fee-in-lieu agreement as provided in Section 27-31-104 and/or Section 27-31-105(2). Such agreements may be for a period not to exceed thirty (30) years, except that any fee-in-lieu agreement entered into under this section and Section 27-31-104 and/or Section 27-31-105(2) shall become effective upon its execution by the enterprise and the county board of supervisors and/or municipal governing authorities, as the case may be, in accordance with Section 27-31-104, and continue in effect until all fee-in-lieu periods granted thereunder have expired; however, the period during which any fee-in-lieu may be granted under this section shall not exceed thirty (30) years, and no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years.

**HISTORY: Laws, 2000, 3rd Ex Sess, ch. 1, § 4; Laws, 2007, ch. 303, § 5; Laws, 2007, 1st Ex Sess, ch. 1, § 5; Laws, 2013, 1st Ex Sess, ch. 1, § 5; Laws, 2016, 1st Ex Sess, ch. 1, § 6, eff from and after passage (approved Feb. 8, 2016).**

**Amendment Notes** — The 2016 1st Extraordinary Session amendment, in the first sentence, inserted "or Section 57-75-5(f)(xxix)," "or all other taxpayers in the taxing districts in which such project is located" and "and/or Section 27-31-105(2)"; added "except that any fee-in-lieu. . . duration of more than ten (10) years" at the end of the last sentence; and made related minor stylistic changes.

## § 57-75-37. Certain counties authorized to contribute or lend funds to enterprises owning or operating certain projects; county may issue bonds to provide funds for such purposes; county may donate property for use in the location, construction, or operation of such projects; additional authority to acquire and contribute project sites, apply for grants and loans for project infrastructure, and enter into certain lease agreements.

(1)(a)(i) Any county in which there is to be constructed a project as defined in Section 57-75-5(f)(xviii) is authorized to assist in defraying the costs incurred or to be incurred by the enterprise establishing such project by:

1. Contributing a sum of up to Five Million Dollars ($5,000,000.00) to such enterprise for use in connection with the construction of the project; and/or

2. Lending a sum of up to Five Million Dollars ($5,000,000.00) upon such terms as the board of supervisors of such county and such enterprise may agree, the proceeds of which loan shall be used by such enterprise in connection with the construction or financing of the project.

(ii) In order to provide the amounts set forth in paragraph (a) (i) of this subsection (1), any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(b) The board of supervisors of any county may donate real property for use in the location, construction and/or operation of a project as defined under Section 57-75-5(f)(xviii) to one or more economic development authorities, economic development districts, industrial development authorities or similar public agencies created pursuant to state law that engage in economic or industrial development in the county, and any such public agencies may accept such donation of real property from the county. Such public agencies also may transfer and convey among themselves, with or without consideration being paid or received, real property to be used in the location, construction and/or operation of such a project, and may accept such transfers or donations.

(2) Any county or municipality in which there is to be constructed a project as defined in Section 57-75-5(f)(xxvi) or 57-75-5(f)(xxvii) is authorized to:

(a) Acquire the site for such project and contribute the site to the enterprise owning or operating the project;

(b) Apply for grants and loans and utilize the proceeds of such grants and loans for infrastructure related to the project; and

(c) Enter into a lease agreement with the enterprise owning or operating the project for a term not to exceed ninety-nine (99) years.

(3)(a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxviii).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority or similar public agency created pursuant to state law that engages in economic or industrial development in the county or a municipality in the county.

(b) Any county in which there is to be located a project is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. The county may provide such assistance by contributing or lending any sum approved for such purpose by the board of supervisors of the county, upon such terms as the board of supervisors may agree, to the entity that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection, any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(d) In any county in which there is to be located a project, the governing authorities of any public agency may:

(i) Transfer and convey to the authority or the Mississippi Development Authority, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, and the authority and the Mississippi Development Authority may accept such transfers or donations;

(ii) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations; and

(iii) Make grants or other contributions of funds to one another for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds.

(e) In any county in which there is to be located a project, the person, entity or other agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the person, agency or other entity seeking to acquire the property, and at which the owner of the property is willing to sell the property.

(4)(a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority or similar public agency created pursuant to state law that engages in economic or industrial development in the county or a municipality in the county.

(iii) "Board of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(iv) "Superintendent of education" shall have the meaning ascribed to such term in Section 29-3-1.1.

(b) In any county in which there is to be located a project, any public agency is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and/or any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. Any such public agency may provide such assistance by contributing or lending any sum approved for such purpose by the governing authority of such public agency, upon such terms as the governing authority of such public agency may agree, to the entity or public agency that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, including, without limitation, to defray the costs of site preparation, utilities, real estate purchases, purchase options and improvements, infrastructure, roads, rail improvements, public works, job training, as well as planning, design and environmental impact studies with respect to a project, and any other expenses approved by any such public agency.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection:

(i) Any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, Section 19-5-99 or in any other manner permitted by any local and private law or other general laws; and

(ii) Any public agency may borrow or accept grants of such amounts from the authority or the Mississippi Development Authority for such duration and upon such terms and conditions approved by the governing authority of such public agency and the authority or Mississippi Development Authority, as applicable.

(d) In any county in which there is to be located a project, the governing authority of any public agency may:

(i) Transfer and convey to the authority or the Mississippi Development Authority, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, and the authority and the Mississippi Development Authority may accept such transfers or donations;

(ii) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations;

(iii) Make grants or other contributions of funds to:

1. One another for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds; and/or

2. A local water association incorporated as a nonprofit corporation and located within such county for the purpose of defraying the costs incurred or to be incurred thereby in connection with water or wastewater-related infrastructure improvements, including an elevated water tank, located within the project area; and

(iv) Make one or more periodic grants or other contributions of funds to an enterprise or affiliate thereof owning and/or operating a project in such amount or amounts approved by such governing authority, and enter into an agreement with such enterprise to make such periodic grants or other contributions of funds; however, the duration of any such obligation of the public agency to make such grants or other contributions shall not exceed thirty (30) years.

(e) In any county in which there is to be located a project, the public agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(1)(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the public agency seeking to acquire the property, and at which the owner of the property is willing to sell the property, and any such public agency is further authorized to procure an option to purchase any such real property for such purchase price authorized by this subsection for the lowest option payment at which the owner of the property is willing to grant such option.

(f) In any county in which there is to be located a project, upon the sale of any sixteenth section lands for industrial purposes as provided by law for such project, the board of education controlling such lands, the superintendent of education and the Mississippi Development Authority, on behalf of the state, may sell and convey all minerals in, on and under any such lands for such consideration determined to be adequate by, and upon such terms and conditions prescribed by, such board of education, superintendent of education and the Mississippi Development Authority.

(g) In any county in which there is to be located a project, the governing authority of the applicable public agency may enter into an agreement binding on future governing authorities, for any period not to exceed thirty (30) years to:

(i) Waive any and all fees and expenses associated with building permits and privilege licenses required for the project;

(ii) Establish and/or maintain a rate structure for water supplied to the project and wastewater received from the project, which shall be no higher than the lowest tariff prices for such water and wastewater charged to any customer of equal or lesser volume located within the boundaries of the public agency;

(iii) Provide firefighting, hazardous materials emergency response, technical rescue and medical response assistance to the enterprise owning or operating the project; and

(iv) Require any contractor hired by the public agency for purposes of entering onto the project site for such project to perform work-related to the provision of water supply or wastewater services, to procure customary liability insurance designating the enterprise owning or operating the project as an additional insured and to contractually indemnify such enterprise for any losses incurred by the enterprise as a result of such contractor's negligence and/or willful acts or omissions arising from the contractor's entry upon such project site.

(5) The powers and authority granted in this section are an additional, alternative and supplemental method for the doing of the things authorized by this section and are additional and supplemental to, and not in derogation of, any other powers conferred by law.

**HISTORY: Laws, 2005, ch. 315, § 8; Laws, 2010, ch. 301, § 5; Laws, 2010, ch. 405, § 5; Laws, 2013, 1st Ex Sess, ch. 1, § 6; Laws, 2016, 1st Ex Sess, ch. 1, § 7, eff from and after passage (approved Feb. 8, 2016).**

**Amendment Notes —** The 2016 1st Extraordinary Session amendment substituted "Section 43-37-3(1)(b)" for "Section 43-37-3(b)" in (3)(e); added (4); and redesignated former (4) as (5).

# CHAPTER 80.

# GROWTH AND PROSPERITY ACT

Sec.

57-80-7. Counties eligible for certificate of public convenience and necessity; application requirements; municipal consent to participation in Growth and Prosperity Program [Repealed effective July 1, 2023].

57-80-9. Exemption from local taxation; conditions.

## § 57-80-5. Definitions.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 36; Laws, 2001, ch. 582, § 1; Laws, 2004, ch. 469, § 1; Laws, 2010, ch. 392, § 1; brought forward without change, Laws, 2015, ch. 359, § 3, eff from and after passage (approved Mar. 17, 2015).**

**Editor's Notes —** This section was brought forward without change by § 3, Chapter 359, Laws of 2015, effective from and after March 17, 2015. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of this section, it is not reprinted in this supplement.

**Amendment Notes —** The 2015 amendment brought the section forward without change.

## § 57-80-7. Counties eligible for certificate of public convenience and necessity; application requirements; municipal consent to participation in Growth and Prosperity Program [Repealed effective July 1, 2023].

(1) From and after December 31, 2000, the following counties may apply to the MDA for the issuance of a certificate of public convenience and necessity:

(a) Any county of this state which has an annualized unemployment rate that is at least two hundred percent (200%) of the state's unemployment rate as of December 31 of any year after December 31, 2000, as determined by the Mississippi Department of Employment Security's most recently published data;

(b) Any county of this state in which thirty percent (30%) or more of the population of the county is at or below the federal poverty level according to the official data compiled by the United States Census Bureau as of August 30, 2000, for counties that apply before December 31, 2002, or the most recent official data compiled by the United States Census Bureau for counties that apply from and after December 31, 2002; or

(c) Any county of this state having an eligible supervisors district.

(2) The application, at a minimum, must contain (a) the Mississippi Department of Employment Security's most recently published figures that reflect the annualized unemployment rate of the applying county as of December 31 or the most recent official data by the United States Census Bureau required by subsection (1) of this section, as the case may be, and (b) an order or resolution of the county consenting to the designation of the county as a growth and prosperity county.

(3) Any municipality of a designated growth and prosperity county or within an eligible supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of subsection (1)(b) of this section may by order or resolution of the municipality consent to participation in the Growth and Prosperity Program.

(4) No incentive or tax exemption shall be given under this chapter without the consent of the affected county or municipality.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 37; Laws, 2001, ch. 582, § 2; Laws, 2004, ch. 572, § 55; Laws, 2006, ch. 499, § 2; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 55; Laws, 2009, ch. 399, § 1; reenacted without change, Laws, 2010, ch. 559, § 55; reenacted without change, Laws, 2011, ch. 471, § 56; reenacted without change, Laws, 2012, ch. 515, § 55; Laws, 2015, ch. 359, § 1, eff from and after passage (approved Mar. 17, 2015); reenacted without change, Laws, 2019, ch. 451, § 55, eff from and after April 3, 2019.**

**Editor's Notes —** Laws of 2015, ch. 359, § 4, provides:

"SECTION 4. The acceptance of applications for certificates of public convenience and necessity made by counties under the Growth and Prosperity Act after December 31, 2012, through the effective date of this act [March 17, 2015], and any actions taken by the Mississippi Development Authority regarding such applications are hereby ratified and confirmed."

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, as amended by Laws of 2012, ch. 515, § 58, as amended by Laws of 2019, ch. 451, § 58, and as amended by Laws of 2020, ch. 476, § 7, provides:

"SECTION 60. Sections 8 through 59 of this act shall stand repealed on July 1, 2023."

**Amendment Notes —** The 2015 amendment deleted "and until December 31, 2012" following "December 31, 2000," in (1); and substituted "after December 31, 2000" for "from 2000 through 2012" in (1)(a).

The 2019 amendment, effective April 3, 2019, reenacted the section without change.

## § 57-80-9. Exemption from local taxation; conditions.

(1) Upon the issuance by the MDA of its certificate of public convenience and necessity, designating certain counties as growth and prosperity counties, any approved business enterprise in any such a growth and prosperity county or any approved business enterprise located within an eligible supervisors district within eight (8) miles of the boundary of the county that meets the criteria of Section 57-80-7(1)(b) shall be exempt from all local taxes levied by the county and all state taxes for a period of ten (10) years or until December 31, 2029, whichever occurs first, and upon consent of any municipality within such county or within such supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of Section 57-80-7(1)(b), shall be exempt from all local taxes levied by such municipality for a period of ten (10) years or until December 31, 2033, whichever occurs first; however, if the business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to utilize the exemption from state taxes, the MDA may extend the duration of the exemption from state taxes for not more

than two (2) years or until December 31, 2033, whichever occurs first. Any business enterprise that has property or equipment purchased utilizing the state tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

(2) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions: (a) any exemption provided under this chapter is nontransferable and cannot be applied, used or assigned to any other person or business or tax account; (b) no approved business enterprise may claim or use the exemption granted under this chapter unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and (c) the approved business enterprise must enter into an agreement with the MDA which sets out, at a minimum the performance requirements of the approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the approved business enterprise are not met.

(3) Upon entering into such an agreement, the MDA shall forward such agreement to the Department of Revenue and the affected local taxing authorities so that the exemption can be implemented. The Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of both local and state exemptions granted under this chapter.

(4) Any business enterprise that relocates its present operation and jobs to a growth and prosperity county or an eligible supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of Section 57-80-7(1)(b) from another county in the state shall not receive any of the exemptions granted in this chapter.

(5) If the annualized unemployment rate in a growth and prosperity county falls below one hundred fifty percent (150%) of the state's annualized unemployment rate for three (3) consecutive calendar years and less than thirty percent (30%) of the population of the county is at or below the federal poverty level according to the most recent official data compiled by the United States Census Bureau as of December 31 of the third of such consecutive calendar years, the tax exemptions authorized under this chapter may not be granted to additional business enterprises.

**HISTORY: Laws, 2000, 2nd Ex Sess, ch. 1, § 38; Laws, 2006, ch. 499, § 1; Laws, 2007, ch. 457, § 1; Laws, 2009, ch. 399, § 2; Laws, 2015, ch. 359, § 2, eff from and after passage (approved Mar. 17, 2015); Laws, 2019, ch. 355, § 1, eff from and after passage (approved March 21, 2019).**

**Amendment Notes —** The 2015 amendment substituted "December 31, 2029" for "December 31, 2022" three times in (1); and substituted "Department of Revenue" for "State Tax Commission" twice in (3).

The 2019 amendment, effective March 21, 2019, substituted "December 31, 2033" for "December 31, 2029" twice in the first sentence.

# CHAPTER 85.
# MISSISSIPPI RURAL IMPACT ACT

Sec.
57-85-5. Definitions; Mississippi Rural Impact Fund; grants, loans and loan guaranties; application; powers.

## § 57-85-5. Definitions; Mississippi Rural Impact Fund; grants, loans and loan guaranties; application; powers.

(1) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "MDA" means the Mississippi Development Authority.

(b) "Project" means construction, rehabilitation or repair of buildings; sewer systems and transportation directly affecting the site of the proposed rural business; sewer facilities, acquisition of real property, development of real property, improvements to real property, and any other project approved by the Mississippi Development Authority.

(c) "Rural business" means a new or existing business located or to be located in a rural community or a business or industry located or to be located within five (5) miles of a rural community. "Rural business" does not include gaming businesses or utility businesses.

(d) "Rural community" means a county in the State of Mississippi that meets the population criteria for the term "limited population county" as provided in Section 57-1-18. "Rural community" also means a municipality in the State of Mississippi that meets the population criteria for the term "small municipality" as provided in Section 57-1-18.

(2)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Rural Impact Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used to make grants and loans to rural communities and loan guaranties on behalf of rural businesses to assist in completing projects under this section.

(b) Monies in the fund which are derived from proceeds of bonds issued after April 15, 2003, may be used to reimburse reasonable actual and necessary costs incurred by the MDA for the administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements under this paragraph (b) shall satisfy any applicable federal tax law requirements.

(c) The MDA may use monies in the fund to pay for the services of architects, engineers, attorneys and such other advisors, consultants and agents that the MDA determines are necessary to review loan and grant applications and to implement and administer the program established under this section.

(d) The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(3) The MDA shall establish a program to make grants and loans to rural communities and loan guaranties on behalf of rural businesses from the Mississippi Rural Impact Fund. A rural community may apply to the MDA for a grant or loan under this section in the manner provided for in this section. A rural business may apply to the MDA for a loan guaranty under this section in the manner provided in this section.

(4) A rural community desiring assistance under this section must submit an application to the MDA. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested and any other information required by the MDA. A rural business desiring assistance under this section must submit an application to the MDA. The application must include a description of the purpose for which assistance is requested and any other information required by the MDA. The MDA may waive any requirements of the program established under this section in order to expedite funding for unique projects.

(5) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

**HISTORY: Laws, 2003, ch. 506, § 3; Laws, 2014, ch. 427, § 5, eff from and after July 1, 2014; Laws, 2019, ch. 453, § 9, eff from and after July 1, 2019.**

**Amendment Notes** — The 2019 amendment, in (2)(b), in the first sentence, substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing assistance related to a project for which funding is provided under this section from the use of proceeds of such bonds," in the second sentence, deleted "for each project" following "shall be maintained," in the third sentence, deleted "for a project" following "necessary costs" and "for such project" at the end, and deleted the former next-to-last sentence, which read: "Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects."

# CHAPTER 87.

# MISSISSIPPI BROADBAND TECHNOLOGY DEVELOPMENT ACT

Sec.

57-87-5. Definitions; credit against income tax and corporation franchise tax liability of telecommunications enterprises for investments made after June 30, 2003 and before July 1, 2020.

Sec.
57-87-7. Ad valorem taxation for equipment placed in service after June 30, 2003 and before July 1, 2020 for use in deployment of broadband technologies.

## § 57-87-5. Definitions; credit against income tax and corporation franchise tax liability of telecommunications enterprises for investments made after June 30, 2003 and before July 1, 2020.

(1) For purposes of this section:

(a) "Telecommunications enterprises" shall have the meaning ascribed to such term in Section 57-73-21(14);

(b) "Tier One areas" mean counties designated as Tier One areas pursuant to Section 57-73-21(1);

(c) "Tier Two areas" mean counties designated as Tier Two areas pursuant to Section 57-73-21(1);

(d) "Tier Three areas" mean counties designated as Tier Three areas pursuant to Section 57-73-21(1); and

(e) "Equipment used in the deployment of broadband technologies" means any equipment capable of being used for or in connection with the transmission of information at a rate, prior to taking into account the effects of any signal degradation, that is not less than three hundred eighty-four (384) kilobits per second in at least one (1) direction, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

(2) With respect to the investment in each year by a telecommunications enterprise after June 30, 2003, and before July 1, 2025, there shall be allowed annually as a credit against the aggregate tax imposed by Chapters 7 and 13 of Title 27, Mississippi Code of 1972, an amount equal to:

(a) Five percent (5%) of the cost of equipment used in the deployment of broadband technologies in Tier One areas;

(b) Ten percent (10%) of the cost of equipment used in the deployment of broadband technologies in Tier Two areas; and

(c) Fifteen percent (15%) of the cost of equipment used in the deployment of broadband technologies in Tier Three areas.

(3) Such annual credits shall be allowed commencing with the taxable year in which such property is placed in service and continue for nine (9) consecutive years thereafter. The aggregate credit established by this section taken in any one (1) tax year shall be limited to an amount not greater than fifty percent (50%) of the taxpayer's tax liabilities under Chapters 7 and 13 of Title 27, Mississippi Code of 1972; however, any tax credit claimed under this section, but not used in any taxable year, may be carried forward for ten (10) consecutive years from the close of the tax year in which the credits were earned.

(4) The maximum aggregate amount of credits that may be claimed under this section shall not exceed the original investment made by a telecommuni-

cations enterprise in the qualifying equipment used in the deployment of broadband technologies.

(5) For purposes of this section, the tier in which broadband technology is deployed shall be determined in the year in which such technology is deployed in a county and such tier shall not change if the county is later designated in another tier.

(6) There will be no credit allowed under this section if the equipment used in the deployment of broadband technologies was paid for, or its cost was reimbursed by, funds made available under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

**HISTORY: Laws, 2003, ch. 520, § 3; Laws, 2006, ch. 487, § 1; Laws, 2014, ch. 445, § 3, eff from and after July 1, 2014; Laws, 2020, ch. 453, § 6, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Editor's Notes —** Laws of 2020, ch. 453, § 8, provides:

"SECTION 8. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 453, § 9, provides:

"SECTION 9. Sections 2 and 3 of this act shall take effect and be in force from and after January 1, 2020, and the remaining sections of this act shall take effect and be in force from and after July 1, 2020."

**Amendment Notes —** The 2020 amendment, in (2), substituted "July 1, 2025" for "July 1, 2020"; and added (6).

**Federal Aspects —** Coronavirus Aid, Relief, and Economic Security Act (CARES Act), see 116 P.L. 136, 134 Stat. 281.

## § 57-87-7. Ad valorem taxation for equipment placed in service after June 30, 2003 and before July 1, 2020 for use in deployment of broadband technologies.

Equipment used in the deployment of broadband technologies by a telecommunications enterprise (as defined in Section 57-73-21(14)), that is placed in service after June 30, 2003, and before July 1, 2025, shall be exempt from ad valorem taxation for a period of ten (10) years after the date such equipment is placed in service. For purposes of this section, "equipment used in the deployment of broadband technologies" means any equipment capable of being used for or in connection with the transmission of information at a rate, prior to taking into account the effects of any signal degradation, that is not less than three hundred eighty-four (384) kilobits per second in at least one direction, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

**HISTORY: Laws, 2003, ch. 520, § 4; Laws, 2013, ch. 462, § 2; Laws, 2014, ch. 445, § 4, eff from and after July 1, 2014; Laws, 2020, ch. 453, § 7, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Editor's Notes —** Laws of 2020, ch. 453, § 8, provides:

"SECTION 8. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 453, § 9, provides:

"SECTION 9. Sections 2 and 3 of this act shall take effect and be in force from and after January 1, 2020, and the remaining sections of this act shall take effect and be in force from and after July 1, 2020."

**Amendment Notes —** The 2020 amendment, in the first sentence, substituted "July 1, 2025" for "July 1, 2020."

# CHAPTER 89.

# MISSISSIPPI MOTION PICTURE INCENTIVE ACT

Sec.

57-89-3. Definitions.
57-89-7. Availability of certain rebates to motion picture production companies in connection with production of motion pictures; request for rebate.

## § 57-89-3. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Base investment" means the actual investment made and expended in Mississippi by a motion picture production company in connection with the production of a state-certified production in the state. The term "base investment" includes amounts expended in Mississippi by a motion picture production company as per diem and housing allowances in connection with the production of a state-certified production in the state. The term "base investment" shall not include payroll. However, in the case of a motion picture production company, or its owner, principal, member, production partner, independent contractor director or producer, or subsidiary company that (i) is designated and pre-qualified by the Mississippi Development Authority as Mississippi-based or a Mississippi resident; (ii) has filed income taxes in the State of Mississippi during each of the previous three (3) years; and (iii) has engaged in activities related to the production of at least two (2) motion pictures in Mississippi during the past ten (10) years, base investment may include payroll and fringes paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968, if so requested by the motion picture production

company. A motion picture production company must submit such a request to the Mississippi Development Authority at the time the company submits an application for approval as a state-certified production. In addition, if base investment includes payroll and fringes, and the payroll and fringes paid for an employee exceeds Five Million Dollars ($5,000,000.00), then only the first Five Million Dollars ($5,000,000.00) of such payroll and fringes may be included in base investment.

(b) "Employee" means an individual directly involved in the physical production and/or post-production of a motion picture produced in the state and who is employed by a:

(i) Motion picture production company that is directly involved in the physical production and/or post-production of a motion picture in the state;

(ii) Personal service corporation retained by a motion picture production company to provide persons used directly in the physical production and/or post-production of a motion picture in the state; or

(iii) Payroll service or loan-out company that is retained by a motion picture production company to provide employees who work directly in the physical production and/or post-production of a motion picture in the state.

(c) "Fringes" means costs paid by a motion picture production company on or after September 1, 2013, for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits and health insurance premiums.

(d) "Motion picture" means a nationally distributed feature-length film, video, DVD, television program or series, commercial, or computer or video game made in Mississippi, in whole or in part, for theatrical or DVD release or television viewing or as a television pilot or viewing through streaming video or internet delivery, or for playing on a video game console, personal computer or handheld device. The term "motion picture" shall not include the production of television coverage of news and athletic events, or a film, video, DVD, television program, series, or commercial that contains any material or performance defined in Section 97-29-103.

(e) "Motion picture production company" means a company engaged in the business of producing nationally distributed motion pictures, videos, DVDs, television programs or series, commercials, or computer or video games intended for a theatrical release, for television viewing or for playing on a video game console, personal computer or handheld device. The term "motion picture production company" includes a company engaged in the business of making such productions through the use of animation, interactive media, preproduction and post-production 3D applications, video game cinematics, virtual production, visual effects, and motion capture within the fields of feature film, television, commercials and games. The term "motion picture production company" shall not mean or include any company owned,

affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, or any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

(f) "Payroll" means salary, wages or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld.

(g) "Resident" or "resident of Mississippi" means a natural person, and for the purpose of determining eligibility for the rebate provided by Section 57-89-7, any person domiciled in the State of Mississippi and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six (6) months of each year within the state.

(h) "State" means the State of Mississippi.

(i) "State-certified production" means a motion picture approved by the Mississippi Development Authority produced by a motion picture production company in the state. An application for approval as a state-certified production must be submitted to the Mississippi Development Authority before production of the project begins.

**HISTORY: Laws, 2004, ch. 528, § 2; Laws, 2007, ch. 324, § 1; Laws, 2008, ch. 524, § 1; Laws, 2011, ch. 453, § 1; Laws, 2013, ch. 490, § 1; Laws, 2014, ch. 524, § 1, eff from and after Jan. 1, 2014; Laws, 2019, ch. 452, § 1, eff from and after passage (approved April 8, 2019).**

**Amendment Notes —** The 2019 amendment, effective April 8, 2019, added the last three sentences of (a).

**Cross References —** Mississippi Income Tax Withholding Law of 1968, see § 27-1-301 et seq.

## § 57-89-7. Availability of certain rebates to motion picture production companies in connection with production of motion pictures; request for rebate.

(1)(a) A motion picture production company that expends at least Fifty Thousand Dollars ($50,000.00) in base investment, payroll and/or fringes, in the state shall be entitled to a rebate of a portion of the base investment made by the motion picture production company. Subject to the provisions of this section, the amount of the rebate shall be equal to twenty-five percent (25%) of the base investment made by the motion picture production company.

(b) In addition to the rebates authorized under paragraphs (a), (c) and (d) of this subsection, a motion picture production company may receive a rebate equal to twenty-five percent (25%) of payroll and fringes paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll and fringes paid for an employee exceeds Five Million Dollars

($5,000,000.00), then the rebate is authorized only for the first Five Million Dollars ($5,000,000.00) of such payroll and fringes.

(c) In addition to the rebates authorized under paragraphs (a), (b) and (d) of this subsection, a motion picture production company may receive a rebate equal to thirty percent (30%) of payroll and fringes paid for any employee who is a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll and fringes paid for an employee exceeds Five Million Dollars ($5,000,000.00), then the rebate is authorized only for the first Five Million Dollars ($5,000,000.00) of such payroll and fringes.

(d) In addition to the rebates authorized in paragraphs (a), (b) and (c) of this subsection, a motion picture production company may receive an additional rebate equal to five percent (5%) of the payroll and fringes paid for any employee who is an honorably discharged veteran of the United States Armed Forces and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968.

(e) If a motion picture has physical production activities and/or post-production activities both inside and outside the state, then the motion picture production company shall be required to provide an itemized accounting for each employee regarding such activities inside and outside the state for the purposes of proration of eligible payroll based on the percentage of activities performed in the state.

(f) The total amount of rebates authorized for a motion picture project shall not exceed Ten Million Dollars ($10,000,000.00) in the aggregate.

(g) The total amount of rebates authorized in any fiscal year shall not exceed Twenty Million Dollars ($20,000,000.00) in the aggregate.

(2) A motion picture production company desiring a rebate under this section must submit a rebate request to the Department of Revenue upon completion of the project. The request must include a detailed accounting of the base investment made by the motion picture production company and any other information required by the Department of Revenue. Rebates made by the Department of Revenue under this section shall be made from current income tax collections. The Department of Revenue shall not approve any application for a rebate under subsection (1) (b) of this section after July 1, 2017.

(3) The Department of Revenue shall have all powers necessary to implement and administer the provisions of this section, and the Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(4) The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

**HISTORY: Laws, 2004, ch. 528, § 4; Laws, 2007, ch. 324, § 2; Laws, 2008, ch. 524, § 2; Laws, 2011, ch. 453, § 2; Laws, 2013, ch. 490, § 2; Laws, 2014, ch. 427,**

**§ 6; Laws, 2014, ch. 524, § 2; Laws, 2016, ch. 483, § 5, eff from and after July 1, 2016.**

**Amendment Notes** — The 2016 amendment substituted "July 1, 2017" for "July 1, 2016" at the end of (2).

# CHAPTER 93.

# MISSISSIPPI EXISTING INDUSTRY PRODUCTIVITY LOAN PROGRAM

Sec.

57-93-1. Definitions; Mississippi Existing Industry Productivity Loan Program established; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; Mississippi Existing Industry Productivity Loan Fund created; Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund created.

## § 57-93-1. Definitions; Mississippi Existing Industry Productivity Loan Program established; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; Mississippi Existing Industry Productivity Loan Fund created; Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund created.

(1) As used in this section:

(a) "Existing industry" means a manufacturing enterprise that has been operating in this state for not less than two (2) consecutive years that meets minimum criteria established by the Mississippi Development Authority.

(b) "Long-term fixed assets" means assets that:

(i) Through new technology will improve an enterprise's productivity and competitiveness; and

(ii) Meet criteria established by the Mississippi Development Authority.

(c) "MDA" means the Mississippi Development Authority.

(2)(a) There is established the Mississippi Existing Industry Productivity Loan Program to be administered by the MDA for the purpose of providing loans to:

(i) Existing industries to deploy long-term fixed assets that through new technology will improve productivity and competitiveness;

(ii) Existing industries for the purchase or refinancing of land, buildings or equipment; and

(iii) Counties or incorporated municipalities to assist existing industries in deploying long-term fixed assets that through new technology will improve productivity and competitiveness and to assist existing industries through the purchase of land, buildings and equipment.

(b)(i) An existing industry that accepts a loan under this program shall not reduce employment by more than twenty percent (20%) through the use of the long-term fixed assets for which the loan is granted.

(ii) An existing industry that accepts assistance from a county or incorporated municipality through a loan made under this program shall not reduce employment by more than twenty percent (20%) through the use of the long-term fixed assets for which the assistance is granted.

(c) An existing industry desiring a loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the loan requested;

(iii) The estimated total cost of the project;

(iv) A two-year business plan for the project;

(v) Financial statements or tax returns for the existing industry for the two (2) years immediately prior to the application;

(vi) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the enterprise; and

(vii) Any other information required by the MDA.

(d) A county or incorporated municipality desiring a loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the loan requested;

(iii) The estimated total cost of the project;

(iv) A statement showing the sources of funding for the project;

(v) A two-year business plan for the project;

(vi) Financial statements or tax returns for the existing industry for the two (2) years immediately prior to the application;

(vii) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the existing industry;

(viii) Any commitment by the existing industry to pay rental on, or to make loan repayments related to, the assistance; and

(ix) Any other information required by the MDA.

(e) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(f) The rate of interest on loans under this section shall be set by the MDA.

(g) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section. However, in making loans under this section, the MDA shall attempt

to provide for an equitable distribution of such loans among each of the congressional districts of this state in order to promote economic development across the entire state.

(3)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Existing Industry Productivity Loan Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the MDA for the purposes described in this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA for the administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds that are deposited into the fund. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(c)(i) There is hereby created the Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund from which the principal and interest on bonds whose proceeds are deposited into the Mississippi Existing Industry Productivity Loan Fund and utilized to provide loans authorized under this section, shall be repaid. Unexpended amounts remaining in the bond sinking fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the bond sinking fund shall be deposited into the bond sinking fund. At any time when the funds required to pay the principal and interest on bonds whose proceeds are deposited into the Mississippi Existing Industry Productivity Loan Fund and are utilized to provide loans under this section are more than the amount available in the bond sinking fund, the Legislature shall appropriate the balance of the funds necessary to pay the principal and interest on such bonds.

(ii) Money repaid on loans authorized under this section that are derived from the proceeds of bonds deposited into the Mississippi Existing Industry Productivity Loan Fund shall be deposited into the Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund.

(4)(a) A county that receives a loan under this section shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan under this section shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for monthly payments, semiannual payments or

other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(b) The State Auditor, upon request of the MDA, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the MDA. In addition, the State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(c) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

**HISTORY: Laws, 2005, 3rd Ex Sess, ch. 1, § 1; Laws, 2007, ch. 382, § 1; Laws, 2009, ch. 557, § 23; Laws, 2014, ch. 427, § 7, eff from and after July 1, 2014; Laws, 2019, ch. 453, § 10, eff from and after July 1, 2019.**

**Amendment Notes** — The 2019 amendment, in (3)(b), in the first sentence, substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing loans under this section through the use of general obligation bonds," in the second sentence, deleted "for each loan" following "shall be maintained," and deleted the former next-to-last sentence, which read: "Monies authorized for a particular loan may not be used to reimburse administrative costs for unrelated loans."

# CHAPTER 95.

# MISSISSIPPI JOB PROTECTION ACT

Sec.

57-95-1. Definitions; Mississippi Job Protection Act established; purpose; loan application; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; grants to at-risk industries; Mississippi Job Protection Act Fund created; Mississippi Job Protection Act Bond Sinking Fund created.

## § 57-95-1. Definitions; Mississippi Job Protection Act established; purpose; loan application; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; grants to at-risk industries; Mississippi Job Protection Act Fund created; Mississippi Job Protection Act Bond Sinking Fund created.

(1) As used in this section:

(a) "At-risk industry" means any enterprise that has been operating in this state for not less than three (3) consecutive years that has lost jobs or is at risk to lose jobs because such jobs have been outsourced.

(b) "MDA" means the Mississippi Development Authority.

(c) "Outsource" means to send out work or jobs of a certain provider or manufacturer of the State of Mississippi to an overseas provider or manufacturer or a provider or manufacturer located outside the boundaries of the United States or any territory of the United States.

(2)(a) There is established the Mississippi Job Protection Act to be administered by the MDA for the purpose of providing grants and loans to:

(i) At-risk industries to be used for job retention and to improve productivity and competitiveness; and

(ii) Counties and incorporated municipalities to provide assistance to at-risk industries to be used for job retention and to improve productivity and competitiveness.

(b)(i) An at-risk industry that accepts a grant or loan under this program shall not reduce employment by more than twenty percent (20%).

(ii) An at-risk industry that accepts assistance from a county or incorporated municipality through a loan or grant made under this section shall not reduce employment by more than twenty percent (20%).

(c) An at-risk industry desiring a grant or loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the grant or loan is requested;

(ii) The amount of the grant or loan requested;

(iii) The estimated total cost of the project;

(iv) A two-year business plan for the project;

(v) Financial statements or tax returns for the at-risk industry for the two (2) years immediately prior to the application;

(vi) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the at-risk industry; and

(vii) Any other information required by the MDA.

(d) A county or incorporated municipality desiring a grant or loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the grant or loan requested;

(iii) The estimated total cost of the project;

(iv) A statement showing the sources of funding for the project;

(v) A two-year business plan for the project;

(vi) Financial statements or tax returns for the at-risk industry for the two (2) years immediately prior to the application;

(vii) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the at-risk industry;

(viii) Any commitment by the at-risk industry to pay rental on, or to make loan repayments related to, the assistance; and

(ix) Any other information required by the MDA.

(e) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(f) The amount of a grant or loan under this section shall not exceed fifty percent (50%) of the total cost of the project.

(g) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(3) Grants under this section shall not exceed Two Hundred Thousand Dollars ($200,000.00).

(4)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Job Protection Act Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the MDA for the purposes described in this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA for the administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued under Sections 40 through 55 of Chapter 1, Laws of Third Extraordinary Session of 2005. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(c)(i) There is hereby created the Mississippi Job Protection Act Bond Sinking Fund from which the principal and interest on bonds whose

proceeds are deposited into the Mississippi Job Protection Act Fund and utilized to provide loans authorized under this section, shall be repaid. Unexpended amounts remaining in the bond sinking fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the bond sinking fund shall be deposited into the bond sinking fund. At any time when the funds required to pay the principal and interest on bonds whose proceeds are deposited into the Mississippi Job Protection Act Fund and are utilized to provide loans under this section are more than the amount available in the bond sinking fund, the Legislature shall appropriate the balance of the funds necessary to pay the principal and interest on such bonds.

(ii) Money repaid on loans authorized under this section that are derived from the proceeds of bonds deposited into the Mississippi Job Protection Act Fund shall be deposited into the Mississippi Job Protection Act Bond Sinking Fund.

(5)(a) A county that receives a loan under this section shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan under this section shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for monthly payments, semiannual payments or other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(b) The State Auditor, upon request of the MDA, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the MDA. The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(c) Evidences of indebtedness which are issued pursuant to this section shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

**HISTORY: Laws, 2005, 3rd Ex Sess, ch. 1, § 39; Laws, 2007, ch. 382, § 2; Laws, 2014, ch. 427, § 8, eff from and after July 1, 2014; Laws, 2019, ch. 453, § 11, eff from and after July 1, 2019.**

**Amendment Notes** — The 2019 amendment, in (4)(b), in the first sentence, substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing grants or loans under this section through the use of general obligation bonds," in the second sentence, deleted "for each grant or loan" following "shall be maintained," and deleted the former next-to-last sentence, which read: "Monies authorized for a particular grant or loan may not be used to reimburse administrative costs for unrelated grants or loans."

# CHAPTER 99.

# MISSISSIPPI MAJOR ECONOMIC IMPACT WITHHOLDING REBATE INCENTIVE PROGRAM

Qualified Business or Industry — Companies and Their Affiliates. ..... 57-99-1

## QUALIFIED BUSINESS OR INDUSTRY — COMPANIES AND THEIR AFFILIATES

Sec.

57-99-1. Definitions.
57-99-3. Quarterly incentive payments to qualified companies and their affiliates; duration of payments; application; job requirements; notification of Department of Revenue.

### § 57-99-1. Definitions.

As used in Sections 57-99-1 through 57-99-9, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any company and affiliates thereof, pursuant to rules and regulations of the MDA, which is:

(i) A project that has been certified by the MMEIA as a project defined in Section 57-75-5(f)(xxi) and creates at least one thousand five hundred (1,500) jobs within sixty (60) months of the beginning of the project;

(ii) A project that has been certified by the MMEIA as a project defined in Section 57-75-5(f)(xxii) and creates at least five hundred (500) jobs within seventy-two (72) months of the beginning of the project;

(iii) A project:

1. That has been certified by the MMEIA as a project defined in Section 57-75-5(f)(xxviii);

2. Creates at least twenty-five (25) jobs within sixty (60) months of the beginning of the project; and

3. In which the average annual wages and taxable benefits of the jobs created by such project are at least one hundred ten percent (110%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located, as determined by the Mississippi Department of Employment Security, whichever is the lesser; or

(iv) A project:

1. That has been certified by the MMEIA as a project defined in Section 57-75-5(f)(xxix);

2. That creates at least twenty-five (25) jobs within sixty (60) months following the date required by the MMEIA and prescribed by written agreement between the MMEIA and the enterprise establishing the project described in item 1 of this subparagraph (iv); and

3. In which the average annual wages of the jobs created by such project are at least one hundred ten percent (110%) of the most recently published average annual wage of the state, as determined by the Mississippi Department of Employment Security.

(b) "Qualified job" means full-time employment in this state within the project site of a qualified business or industry that has qualified to receive an incentive payment pursuant to Sections 57-99-1 through 57-99-9, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of Sections 57-99-1 through 57-99-9. "Qualified job" also shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment such as employees who are leased to and managed by the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment; provided, however, that in order for a qualified business or industry to receive incentive payments for such employees, the actual employer of the employees must agree to such payments being made to the qualified business or industry.

(c) "Full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Rebate amount" means the amount of Mississippi income taxes withheld from employees in qualified jobs that is available for rebate to the qualified business or industry, provided that:

(i) Except as otherwise provided in this paragraph (d), the rebate amount shall be three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs; and

(ii) In no event shall incentive payments exceed the actual Mississippi income taxes withheld from employees in qualified jobs that are available for rebate to the qualified business or industry.

(e) "MDA" means the Mississippi Development Authority.

(f) "MMEIA" means the Mississippi Major Economic Impact Authority.

**HISTORY: Laws, 2007, ch. 303, § 17; Laws, 2007, 1st Ex Sess, ch. 1, § 14; Laws, 2013, 1st Ex Sess, ch. 1, § 7; Laws, 2016, 1st Ex Sess, ch. 1, § 8, eff from and after passage (approved Feb. 8, 2016).**

**Amendment Notes —** The 2016 1st Extraordinary Session amendment, in (a), deleted "Mississippi Major Economic Impact Authority" preceding "MMEIA" in (i), added (iv), and made related stylistic changes; and added (f).

## § 57-99-3. Quarterly incentive payments to qualified companies and their affiliates; duration of payments; application; job requirements; notification of Department of Revenue.

(1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in Sections 57-99-1 through 57-99-9 may receive quarterly incentive payments for a period not to exceed twenty-five (25) years from the Department of Revenue pursuant to the provisions of Sections 57-99-1 through 57-99-9 in an amount which shall be equal to the lesser of three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs or the actual amount of Mississippi income tax withheld by the employer for the qualified jobs. A qualified business or industry may elect the date upon which the incentive rebate period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments; however, in the case of a qualified business or industry described in Section 57-99-1(a)(ii), such date may not be later than seventy-two (72) months after the date the business or industry applied for incentive payments, or for a qualified business or industry described in Section 57-99-1(a)(iv), such date may not be later than the date that is sixty (60) months after the earlier of:

(a) The date the qualified business or industry applied for incentive payments; or

(b) The start of commercial production as defined in a definitive agreement between such qualified business or industry and the MDA.

(2) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(3) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry; and

(b) The business or industry must create and maintain the minimum number of qualified jobs as set forth in Section 57-99-1. Establishments that are approved as a qualified business or industry under Sections 57-99-1 through 57-99-9 may not receive incentive payments under Section 57-62-1 et seq.

(4) Upon approval of such an application, the MDA shall notify the Department of Revenue and shall provide it with a copy of the approved application. The Department of Revenue may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of Sections 57-99-1 through 57-99-9. The qualified business or industry shall report to the Department of Revenue periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the Department of Revenue to verify such eligibility.

**HISTORY: Laws, 2007, ch. 303, § 18; Laws, 2007, 1st Ex Sess, ch. 1, § 15; Laws, 2016, 1st Ex Sess, ch. 1, § 9, eff from and after passage (approved Feb. 8, 2016).**

**Amendment Notes** — The 2016 1st Extraordinary Session amendment substituted "Department of Revenue" for "State Tax Commission" in (1) and (4); added "or for a qualified . . . after the earlier of" at the end of (1); and added (1)(a) and (b).

# CHAPTER 105.

# QUALIFIED EQUITY INVESTMENT TAX CREDITS AND PUBLIC ENTITY FINANCING ARRANGEMENTS

Sec.

57-105-1. Income tax and insurance premium tax credits for taxpayers holding certain qualified equity investments; creation of public benefit corporations for financing arrangements regarding public property and facilities.

## § 57-105-1. Income tax and insurance premium tax credits for taxpayers holding certain qualified equity investments; creation of public benefit corporations for financing arrangements regarding public property and facilities.

(1) As used in this section:

(a) "Adjusted purchase price" means the investment in the qualified community development entity for the qualified equity investment, substantially all of the proceeds of which are used to make qualified low-income community investments in Mississippi.

For the purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment will be considered held by a qualified community development entity even if the investment has been sold or repaid; provided that the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment in Mississippi, including any federal Indian reservation located within the geographical boundary of Mississippi within twelve (12) months of the receipt of such capital. A qualified community development entity will not be required to reinvest capital returned from the qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment will be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(b) "Applicable percentage" means:

(i) For any equity investment issued prior to July 1, 2008, four percent (4%) for each of the second through seventh credit allowance dates

for purposes of the taxes imposed by Section 27-7-5 and one and one-third percent (1-1/3%) for each of the second through seventh credit allowance dates for purposes of the taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123.

(ii) For any equity investment issued from and after July 1, 2008, eight percent (8%) for each of the first through third credit allowance dates for purposes of the taxes imposed by Section 27-7-5 or the taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123.

(c) "Credit allowance date" means, with respect to any qualified equity investment:

(i) The later of:

1. The date upon which the qualified equity investment is initially made; or

2. The date upon which the Mississippi Development Authority issues a certificate under subsection (4) of this section; and

(ii)1. For equity investments issued prior to July 1, 2008, each of the subsequent six (6) anniversary dates of the date upon which the investment is initially made; or

2. For equity investments issued from and after July 1, 2008, each of the subsequent two (2) anniversary dates of the date determined as provided for in subparagraph (i) of this paragraph.

(d) "Qualified community development entity" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended, if the entity has entered into an Allocation Agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended.

(e) "Qualified active low-income community business" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended.

(f) "Qualified equity investment" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended. The investment does not have to be designated as a qualified equity investment by the Community Development Financial Institutions Fund of the United States Treasury to be considered a qualified equity investment under this section but otherwise must meet the definition under the Internal Revenue Code. In addition to meeting the definition in Section 45D of the Internal Revenue Code such investment must also:

(i) Have been acquired after January 1, 2007, at its original issuance solely in exchange for cash; and

(ii) Have been allocated by the Mississippi Development Authority.

For the purposes of this section, such investment shall be deemed a qualified equity investment on the later of the date such qualified equity investment is made or the date on which the Mississippi Development Authority issues a certificate under subsection (4) of this section allocating credits based on such investment.

(g) "Qualified low-income community investment" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided, however, that the maximum amount of qualified low-income community investments issued for a single qualified active low-income community business, on an aggregate basis with all of its affiliates, that may be included for purposes of allocating any credits under this section shall not exceed Ten Million Dollars ($10,000,000.00), in the aggregate, whether issued by one (1) or several qualified community development entities.

(2) A taxpayer that holds a qualified equity investment on the credit allowance date shall be entitled to a credit applicable against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123 during the taxable year that includes the credit allowance date. The amount of the credit shall be equal to the applicable percentage of the adjusted purchase price paid to the qualified community development entity for the qualified equity investment. The amount of the credit that may be utilized in any one (1) tax year shall be limited to an amount not greater than the total tax liability of the taxpayer for the taxes imposed by the above-referenced sections. The credit shall not be refundable or transferable. Any unused portion of the credit may be carried forward for seven (7) taxable years beyond the credit allowance date on which the credit was earned. The maximum aggregate amount of qualified equity investments that may be allocated by the Mississippi Development Authority may not exceed an amount that would result in taxpayers claiming in any one (1) state fiscal year credits in excess of Fifteen Million Dollars ($15,000,000.00), exclusive of credits that might be carried forward from previous taxable years; however, a maximum of one-third (1/3) of this amount may be allocated as credits for taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123. Any taxpayer claiming a credit under this section against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123 shall not be required to pay any additional tax under Section 27-15-123 as a result of claiming such credit. The Mississippi Development Authority shall allocate credits within this limit as provided for in subsection (4) of this section.

(3) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document. Such allocation shall be made each taxable year of such pass-through entity which contains a credit allowance date.

(4) The qualified community development entity shall apply for credits with the Mississippi Development Authority on forms prescribed by the Mississippi Development Authority. The qualified community development entity must pay an application fee of One Thousand Dollars ($1,000.00) to the Mississippi Development Authority at the time the application is submitted. In the application the qualified community development entity shall certify to the Mississippi Development Authority the dollar amount of the qualified equity

investments made or to be made in this state, including in any federal Indian reservation located within the state's geographical boundary, during the first twelve-month period following the initial credit allowance date. The Mississippi Development Authority shall allocate credits based on the dollar amount of qualified equity investments as certified in the application. Once the Mississippi Development Authority has allocated credits to a qualified community development entity, if the corresponding qualified equity investment has not been issued as of the date of such allocation, then the corresponding qualified equity investment must be issued not later than one hundred twenty (120) days from the date of such allocation. If the qualified equity investment is not issued within such time period, the allocation shall be cancelled and returned to the Mississippi Development Authority for reallocation. Upon final documentation of the qualified low-income community investments, if the actual dollar amount of the investments is lower than the amount estimated, the Mississippi Development Authority shall adjust the tax credit allowed under this section. The Department of Revenue may recapture all of the credit allowed under this section if:

(a) Any amount of federal tax credits available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(b) The qualified community development entity redeems or makes any principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of the qualified equity investment; or

(c) The qualified community development entity fails to maintain at least eighty-five percent (85%) of the proceeds of the qualified equity investment in qualified low-income community investments in Mississippi at any time prior to the seventh anniversary of the issuance of the qualified equity investment.

Any credits that are subject to recapture under this subsection shall be recaptured from the taxpayer that actually claimed the credit.

The Mississippi Development Authority shall not allocate any credits under this section after July 1, 2021.

(5) Each qualified community development entity that receives qualified equity investments to make qualified low-income community investments in Mississippi must annually report to the Mississippi Development Authority the North American Industry Classification System Code, the county, the dollars invested, the number of jobs assisted and the number of jobs assisted with wages over one hundred percent (100%) of the federal poverty level for a family of four (4) of each qualified low-income community investment.

(6) The Mississippi Development Authority shall file an annual report on all qualified low-income community investments with the Governor, the Clerk of the House of Representatives, the Secretary of the Senate and the Secretary of State describing the North American Industry Classification System Code, the county, the dollars invested, the number of jobs assisted and the number of

jobs assisted with wages over one hundred percent (100%) of the federal poverty level for a family of four (4) of each qualified low-income community investment. The annual report will be posted on the Mississippi Development Authority's internet website.

(7)(a) The purpose of this subsection is to authorize the creation and establishment of public benefit corporations for financing arrangements regarding public property and facilities.

(b) As used in this subsection:

(i) "New Markets Tax Credit transaction" means any financing transaction which utilizes either this section or Section 45D of the Internal Revenue Code of 1986, as amended.

(ii) "Public benefit corporation" means a nonprofit corporation formed or designated by a public entity to carry out the purposes of this subsection.

(iii) "Public entity or public entities" includes utility districts, regional solid waste authorities, regional utility authorities, community hospitals, regional airport authorities, municipal airport authorities, community and junior colleges, educational building corporations established by or on behalf of the state institutions of higher learning, school districts, planning and development districts, county economic development districts, urban renewal agencies, any other regional or local economic development authority, agency or governmental entity, and any other regional or local industrial development authority, agency or governmental entity.

(iv) "Public property or facilities" means any property or facilities owned or leased by a public entity or public benefit corporation.

(c) Notwithstanding any other provision of law to the contrary, public entities are authorized pursuant to this subsection to create one or more public benefit corporations or designate an existing corporation as a public benefit corporation for the purpose of entering into financing agreements and engaging in New Markets Tax Credit transactions, which shall include, without limitation, arrangements to plan, acquire, renovate, construct, lease, sublease, manage, operate and/or improve new or existing public property or facilities located within the boundaries or service area of the public entity. Any financing arrangement authorized under this subsection shall further any purpose of the public entity and may include a term of up to fifty (50) years.

(d) Notwithstanding any other provision of law to the contrary and in order to facilitate the acquisition, renovation, construction, leasing, subleasing, management, operating and/or improvement of new or existing public property or facilities to further any purpose of a public entity, public entities are authorized to enter into financing arrangements in order to transfer public property or facilities to and/or from public benefit corporations, including, without limitation, sales, sale-leasebacks, leases and lease-leasebacks, provided such transfer is related to any New Markets Tax Credit transaction furthering any purpose of the public entity. Any such transfer

under this paragraph (d) and the public property or facilities transferred in connection therewith shall be exempted from any limitation or requirements with respect to leasing, acquiring, and/or constructing public property or facilities.

(e) With respect to a New Markets Tax Credit transaction, public entities and public benefit corporations are authorized to enter into financing arrangements with any governmental, nonprofit or for-profit entity in order to leverage funds not otherwise available to public entities for the acquisition, construction and/or renovation of properties transferred to such public benefit corporations. The use of any funds loaned by or contributed by a public benefit corporation or borrowed by or otherwise made available to a public benefit corporation in such financing arrangement shall be dedicated solely to (i) the development of new properties or facilities and/or the renovation of existing properties or facilities or operation of properties or facilities, and/or (ii) the payment of costs and expenditures related to any such financing arrangements, including, but not limited to, funding any reserves required in connection therewith, the repayment of any indebtedness incurred in connection therewith, and the payment of fees and expenses incurred in connection with the closing, administration, accounting and/or compliance with respect to the New Markets Tax Credit transaction.

(f) A public benefit corporation created pursuant to this subsection shall not be a political subdivision of the state but shall be a nonprofit corporation organized and governed under the provisions of the laws of this state and shall be a special purpose corporation established to facilitate New Markets Tax Credit transactions consistent with the requirements of this section.

(g) Neither this subsection nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the public entity or public benefit corporation might otherwise have under any laws of this state, and this subsection is cumulative to any such powers. This subsection does and shall be construed to provide a complete additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws.

(8) The Mississippi Development Authority shall promulgate rules and regulations to implement the provisions of this section.

**HISTORY: Laws, 2007, ch. 528, § 1; Laws, 2008, ch. 456, § 1; Laws, 2009, ch. 456, § 1; Laws, 2012, ch. 446, § 1; Laws, 2013, ch. 506, § 1; Laws, 2014, ch. 364, § 1; Laws, 2017, ch. 340, § 1, eff from and after July 1, 2017; Laws, 2019, ch. 351, § 1, eff from and after July 1, 2019.**

**Amendment Notes** — The 2017 amendment substituted "January 1, 2020" for "January 1, 2018" in the last paragraph of (4).

The 2019 amendment substituted "July 1, 2021" for "January 1, 2020" in the last paragraph of (4).

# CHAPTER 107.

# MISSISSIPPI WORKFORCE TRAINING PROJECTS

Article 1. Delta Area Workforce Training Project [Repealed]. ..... 57-107-1

## ARTICLE 1.

## DELTA AREA WORKFORCE TRAINING PROJECT [REPEALED].

Sec.
57-107-1 through 57-107-7. Repealed.

### §§ 57-107-1 through 57-107-7. Repealed.

Repealed by Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, effective July 1, 2016.

§ 57-107-1. [Laws, 2009, ch. 471, § 1; reenacted without change, Laws, 2011, ch. 480, § 35, eff from and after passage (approved Apr. 6, 2011.)]

§ 57-107-3. [Laws, 2009, ch. 471, § 2; reenacted without change, Laws, 2011, ch. 480, § 36, eff from and after passage (approved Apr. 6, 2011.)]

§ 57-107-5. [Laws, 2009, ch. 471, § 3; reenacted without change, Laws, 2011, ch. 480, § 37, eff from and after passage (approved Apr. 6, 2011.)]

§ 57-107-7. [Laws, 2009, ch. 471, § 4; reenacted without change, Laws, 2011, ch. 480, § 38, eff from and after passage (approved Apr. 6, 2011.)]

**Editor's Notes —** Former §§ 57-107-1 through 57-107-7 created the Mississippi Delta Area Workforce Training Project, a pilot program aimed at implementing coordinated strategies for improving the retention and expansion of jobs in the Mississippi Delta region.

House Bill 507, 2016 Regular Session, repealed Section 39, Chapter 480, Laws of 2011, which amended Section 9, Chapter 471, Laws of 2009, to extend the repeal date of §§ 57-107-1 through 57-107-7, from July 1, 2011, to July 1, 2016, and created § 57-107-9 to place a new repealer on those same sections (effective July 1, 2019), but the Governor vetoed the bill and his veto was allowed to stand.

In his veto message the Governor wrote, in part: "The Mississippi Delta Area Workforce Training Project has been successful and as a result, the program has been taken over and fully funded by the Mississippi Development Authority. The original aims of the pilot program have not only been fulfilled, but they are being furthered by the work that the Mississippi Development Authority is doing with the Mississippi Delta Area Workforce Training Project.

"Therefore, the repealer extension provided by House Bill 507 is not needed."

# CHAPTER 111.

# MISSISSIPPI SMALL BUSINESS AND EXISTING FORESTRY INDUSTRY ENTERPRISE PARTICIPATING LOAN PROGRAM

Sec.

57-111-1. Establishment of program of loans to small businesses and existing forestry industry enterprises; purpose of program; amount of loan; interest rate; use of loan proceeds; Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund created.

## § 57-111-1. Establishment of program of loans to small businesses and existing forestry industry enterprises; purpose of program; amount of loan; interest rate; use of loan proceeds; Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund created.

(1) As used in this section:

(a) "MDA" means the Mississippi Development Authority.

(b) "Program" means the Mississippi Small Business and Existing Forestry Industry Enterprise Participating Loan Program established in this section.

(c) "Small business" means any commercial enterprise with less than one hundred (100) full-time employees, less than Seven Million Dollars ($7,000,000.00) in gross revenues or less than Seven Hundred Fifty Thousand Dollars ($750,000.00) in net annual profit after taxes.

(d) "Existing forestry industry enterprise" means a manufacturing enterprise that:

(i) Has its principal place of business in this state;

(ii) Has been operating in this state for not less than three (3) consecutive years preceding the date of submitting an application for assistance under this section;

(iii) Performs the initial processing of pine logs and/or hardwood logs in the production of lumber products or is engaged in the production of poles and/or timbers; and

(iv) Has employed an average of not less than fifteen (15) employees based on the most recent thirty-six-month period preceding the date that the enterprise submits an application for assistance under this section.

The term "existing forestry industry enterprise" does not include any (a) enterprise with the primary business of producing chips or (b) pulp manufacturer and/or paper manufacturer.

(2) The MDA shall establish a program of loans to be made to small businesses and existing forestry industry enterprises for the purpose of encouraging the extension of conventional financing and the issuance of letters

of credit to small businesses and existing forestry industry enterprises by private institutions. Money to make the loans under the program shall be drawn by the MDA from the Small Business Participating Loan Program Revolving Fund. The amount of a loan to any single small business or existing forestry industry enterprise under the program shall not exceed fifty percent (50%) of the total cost of the project for which financing is sought. Interest shall be charged on the loans at a rate equal to one percent (1%) above the current published prime rate. The term of any loan made under this section shall not exceed five (5) years. Repayments of loans made by the MDA under the program shall be deposited to the credit of the Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund. Small businesses may utilize loan proceeds for buildings, equipment and working capital. An existing forestry industry enterprise that receives a loan under this section may use the loan proceeds for the purpose of providing working capital, acquiring machinery and equipment, making upgrades and improvements to machinery and equipment, acquiring raw materials and any other purposes approved by the MDA.

(3) There is created a special fund in the State Treasury to be known as the Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund which shall consist of money from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Money in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (2) of this section.

(4) Money in the fund that is derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA for the administration of the various grant, loan and financial incentive programs administered by the MDA. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

**HISTORY: Laws, 2010, ch. 533, § 8, eff from and after passage (approved Apr. 16, 2010); Laws, 2019, ch. 453, § 12, eff from and after July 1, 2019.**

**Amendment Notes —** The 2019 amendment, in (4), in the first sentence, substituted "for the administration of the various grant, loan and financial incentive programs administered by the MDA" for "in providing loans under this section through the use of general obligation bonds," in the second sentence, deleted "for each grant" following "shall be maintained," and in the next-to-last sentence, deleted "for a loan" following "necessary costs" and "for such loan" at the end.

# CHAPTER 113.

# BUSINESS ENTERPRISE TAX EXEMPTIONS

Article 1. Business Enterprise Tax Exemptions: Clean Energy Generation and Aerospace Industry Enterprises. ..... 57-113-1
Article 3. Business Enterprise Tax Exemptions: Data Center Enterprises. ..... 57-113-21

## ARTICLE 1.

## BUSINESS ENTERPRISE TAX EXEMPTIONS: CLEAN ENERGY GENERATION AND AEROSPACE INDUSTRY ENTERPRISES.

Sec.
57-113-1. Definitions.

### § 57-113-1. Definitions.

As used in this article:

(a) "Business enterprise" means:

(i) Any enterprise owning or operating a facility for the manufacture or assembly of systems or components used in the generation of clean energy that locates or expands in this state which will have a minimum capital investment in this state of Fifty Million Dollars ($50,000,000.00) and will create a minimum of two hundred fifty (250) new, full-time jobs.

(ii) Any enterprise owning or operating a facility that manufactures, assembles or processes products, components or systems for the aerospace industry or provides research and development or training services in the aerospace industry that locates or expands in this state, which will have a minimum capital investment in this state of Twenty-five Million Dollars ($25,000,000.00) in land, building and equipment and will create a minimum of twenty-five (25) new, full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is less.

(b) "Aerospace industry" means the industry that researches, designs, manufactures, repairs, operates and/or maintains products, components and systems which enable vehicles to move through the air and space.

(c) "Biomass" means and includes any of the following:

(i) Forest-related mill residues, pulping by-product and other by-products of wood processing, thinnings, slash, limbs, bark, brush and other cellulosic plant material or nonmerchantable forest-related products;

(ii) Solid wood waste materials, including dunnage, manufacturing and construction wood wastes, demolition and storm debris and landscape or right-of-way trimmings;

(iii) Agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar and other crop by-products or residues and livestock waste nutrients;

(iv) All plant and grass material that is grown exclusively as a fuel for the production of electricity;

(v) Refuse derived fuels consisting of organic components and fibers of waste water treatment solids; or

(vi) Whole trees.

(d) "Clean energy" means energy that is generated from either:

(i) A renewable energy source such as wind, water, biomass or solar; or

(ii) An alternative energy source such as nuclear.

(e) "MDA" means the Mississippi Development Authority.

(f) "State tax" means:

(i) Any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities that are certified by the Mississippi Development Authority;

(ii) All income tax imposed pursuant to law on income earned by the business enterprise certified by the Mississippi Development Authority;

(iii) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the Mississippi Development Authority; and

(iv) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the Mississippi Development Authority.

**HISTORY: Laws, 2010, ch. 533, § 12, eff from and after July 1, 2010; Laws, 2019, ch. 418, § 1, eff from and after July 1, 2019.**

**Amendment Notes** — The 2019 amendment rewrote (1)(a)(i), which read: "Any enterprise owning or operating a facility that manufactures or assembles products for the aerospace industry or provides research and development or training services in the aerospace industry that locates or expands in this state, which will have a minimum capital investment in this state of Thirty Million Dollars ($30,000,000.00) and will create a minimum of one hundred (100) new, full-time jobs"; and in (1)(b), inserted "products, components and systems which enable" and substituted "to move through" for "moving through."

## ARTICLE 3.

## BUSINESS ENTERPRISE TAX EXEMPTIONS: DATA CENTER ENTERPRISES.

Sec.
57-113-21. Definitions.

Sec.
57-113-25. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.

## § 57-113-21. Definitions.

As used in this article:

(a) "Business enterprise" means any business enterprise owning or operating a data center with a minimum capital investment in this state of Twenty Million Dollars ($20,000,000.00) which will create a minimum of twenty (20) new, full-time jobs with a minimum average annual salary of not less than one hundred twenty-five percent (125%) of the average annual state wage.

(b) "Data center" means a business enterprise that utilizes hardware, software, technology, infrastructure and/or workforce, to store, manage or manipulate digital data.

(c) "MDA" means the Mississippi Development Authority.

(d) "State tax" means:

(i) Any sales and use tax imposed on the business enterprise pursuant to law related to the purchase or lease of component building materials and equipment for initial construction of facilities or expansion of facilities that are certified by the Mississippi Development Authority;

(ii) Any sales and use tax imposed by law on the business enterprise pursuant to law related to the purchase of replacement hardware, software or other necessary technology to operate a data center;

(iii) All income tax imposed pursuant to law on income earned by the business enterprise certified by the Mississippi Development Authority; and

(iv) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the Mississippi Development Authority.

**HISTORY: Laws, 2010, ch. 533, § 16, eff from and after July 1, 2010; Laws, 2019, ch. 396, § 1, eff from and after July 1, 2019.**

**Amendment Notes** — The 2019 amendment, in (a), substituted "Twenty Million Dollars ($20,000,000.00)" for "Fifty Million Dollars ($50,000,000.00)," "twenty (20)" for "fifty (50)" and "one hundred twenty-five percent (125%)" for "one hundred fifty percent (150%)"; and added (d)(iii) and (iv) and made a related change.

## § 57-113-25. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.

(1) Upon approval of the application, the MDA shall issue a certification designating the business enterprise as eligible for the tax exemptions autho-

rized by this article. This certification shall document the date by which all commitments must be met.

(2) Upon the issuance of the certification, the business enterprise shall be exempt from state taxes for a period of ten (10) years subject to the performance requirements set out in the agreement required by subsection (3)(c) of this section.

(3) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions:

(a) Any exemption provided under this article is nontransferable and cannot be applied, used or assigned to any other person or business or tax account without prior approval by the MDA;

(b) No approved business enterprise may claim or use the exemption granted under this article unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and

(c) The business enterprise must enter into an agreement with the MDA which sets out, at a minimum, the performance requirements of the approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the business enterprise are not met.

(4) Upon certifying a business enterprise as eligible for the exemptions under this article, the MDA shall forward the certification along with any other necessary information to the Department of Revenue so that the exemptions can be implemented. The Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of the state tax exemptions granted under this article.

**HISTORY: Laws, 2010, ch. 533, § 18, eff from and after July 1, 2010; Laws, 2019, ch. 396, § 2, eff from and after July 1, 2019.**

**Amendment Notes —** The 2019 amendment inserted "for a period of ten (10) years" in (2).

# CHAPTER 115.

# MISSISSIPPI SMALL BUSINESS INVESTMENT COMPANY ACT

Sec.

57-115-5. Application for small business investment credit; application for certification as small business investment company; computation of credit against investor's state premium tax liability; allocation of tax credits.

## § 57-115-5. Application for small business investment credit; application for certification as small business investment company; computation of credit against investor's state premium tax liability; allocation of tax credits.

(1)(a) The MDA must provide a standardized format for applying for the Mississippi small business investment credit authorized under this chapter, and for certification as a Mississippi small business investment company.

(b) An applicant for certification as a primary Mississippi small business investment company must:

(i) File an application with the MDA which shall include a business plan detailing:

1. The approximate percentage of designated capital the applicant will invest in qualified businesses by the second, fourth and sixth anniversaries of its allocation date;

2. The industry segments listed by the North American Industrial Classification System code and percentage of designated capital in which the applicant will invest; and

3. The number of jobs that will be created or retained as a result of the applicant's investments once all designated capital has been invested. A job shall be considered created or retained if the job pays one hundred twenty-five percent (125%) of the state average annual wage and is maintained for at least three (3) years. The application shall project, at a minimum, that one (1) job shall be created or maintained for each One Hundred Fifty Thousand Dollars ($150,000.00) in credits awarded to the participating investors of the Mississippi small business investment company;

(ii) Pay a nonrefundable application fee of Seven Thousand Five Hundred Dollars ($7,500.00) at the time of filing the application;

(iii) Submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than thirty-five (35) days before the application date that states that the applicant has an equity capitalization of Five Hundred Thousand Dollars ($500,000.00) or more in the form of unencumbered cash, marketable securities or other liquid assets; and

(iv) Have at least two (2) principals or persons, at least one (1) of which is primarily located in Mississippi, employed or engaged to manage the funds who each have a minimum of five (5) years of money management experience in the venture capital or private equity or lending industry.

(c) An applicant for certification as a secondary Mississippi small business investment company must:

(i) File an application with the MDA which shall include a business plan detailing:

1. The approximate percentage of designate capital the applicant

will invest in qualified businesses by the second, fourth and sixth anniversaries of its allocation date;

2. The industry segments listed by the North American Industrial Classification System code and percentage of designated capital in which the applicant will invest; and

3. The number of jobs that will be crested or retained as a result of the applicant's investments once all designated capital has been invested. A job shall be considered created or retained if the job pays one hundred twenty-five percent (125%) of the state average annual wage and is maintained for at least three (3) years. The application shall project, at a minimum, that one (1) job shall be created or maintained for each One Hundred Fifty Thousand Dollars ($150,000.00) in credits awarded to the participating investors of the Mississippi small business investment company;

(ii) Pay a nonrefundable application fee of Three Thousand Seven Hundred Fifty Dollars ($3,750.00) at the time of filing the application;

(iii) Submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than thirty-five (35) days before the application date that states that the applicant has an equity capitalization of One Hundred Fifty Thousand Dollars ($150,000.00) or more in the form of unencumbered cash, marketable securities or other liquid assets;

(iv) Demonstrate that fifty percent (50%) of all secondary investment company investments have been in Mississippi, and all of the applicant's employees have lived in Mississippi for at least two (2) years prior to the application being filed, and that those who are employed or engaged to manage the funds have a minimum of three (3) years of money management experience in the venture capital or private equity or lending industry;

(v) Submit as part of its application a signed and notarized partnership areement letter with a certified primary Mississippi small business investment company; and

(vi) Any participating partner or individual in a certified secondary small business investment company that successfully participated in the initial authorization and allocation of credits in 2012, and which is a partner in a submitted application for credits allocated in subsection (4)(b) of this section, while partnered with the same primary small business investment company from the previous 2012 allocation, shall have the requirements in subparagraphs (iii) and (iv) of this paragraph (c) waived as having been completed through the previous allocation.

(d) The MDA may certify partnerships, corporations, trusts, or limited liability companies, organized on a for-profit basis, which submit an application to be designated as a Mississippi small business investment company if the applicant is located, headquartered, and licensed or registered to conduct business in Mississippi, has as its primary business activity the investment of cash in qualified businesses, and meets all of the criteria of this section.

(e) The MDA must:

(i) Review the organizational documents of each applicant for certification and the business history of each applicant;

(ii) Determine whether the applicant has satisfied all of the requirements of this section; and

(iii) Determine whether the officers and the board of directors, general partners, trustees, managers or members are trustworthy and are thoroughly acquainted with the requirements of this chapter.

(f) Within forty-five (45) days after the receipt of an application, the MDA may issue the certification or refuse the certification and may communicate in detail to the applicant the grounds for refusal, including suggestions for the removal of the grounds.

(g) The MDA must begin accepting applications to become a Mississippi small business investment company not later than August 1, 2012, for credits allocated in subsection (4)(a) of this section, and not later than August 1, 2018, for credits allocated in subsection (4)(b) of this section.

(h) Certification by the MDA and operation of a primary Mississippi small business investment company is not subject to completion of any relationship or agreement with a secondary Mississippi small business investment company, and it is not the intent of this chapter to compel any such agreement.

(2)(a) An insurance company or affiliate of an insurance company must not, directly or indirectly:

(i) Beneficially own, whether through rights, options, convertible interest, or otherwise, fifteen percent (15%) or more of the voting securities or other voting ownership interest of a Mississippi small business investment company;

(ii) Manage a Mississippi small business investment company; or

(iii) Control the direction of investments for a Mississippi small business investment company.

(b) A Mississippi small business investment company may obtain one or more guaranties, indemnities, bonds, insurance policies, or other payment undertakings for the benefit of its participating investors from any entity, except that in no case can more than one (1) participating investor of a Mississippi small business investment company on an aggregate basis with all affiliates of the participating investor, be entitled to provide guaranties, indemnities, bonds, insurance policies, or other payment undertakings in favor of the participating investors of a Mississippi small business investment company and its affiliates in this state.

(c) This subsection (2) does not preclude a participating investor, insurance company or other party from exercising its legal rights and remedies, including, without limitation, interim management of a Mississippi small business investment company, in the event that a Mississippi small business investment company is in default of its statutory obligations or its contractual obligations to a participating investor, insurance company, or other party, or from monitoring a Mississippi small business investment

company to ensure its compliance with this chapter or disallowing any investments that have not been approved by the MDA.

(d) The MDA may contract with an independent third party to review, investigate, and certify that the applications comply with the provisions of this chapter.

(3)(a) At the time of its investment of designated capital a participating investor shall earn a vested credit against the participating investor's state premium tax liability in an amount equal to one hundred percent (100%) of the participating investor's investment of designated capital in a Mississippi small business investment company, subject to the limits imposed by this section.

(b) From and after January 1, 2015, a participating investor may claim the credit allocated in subsection (4)(a) of this section as follows:

(i) For the 2015 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;

(ii) For the 2016 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;

(iii) For the 2017 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;

(iv) For the 2018 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital; and

(v) For the 2019 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital.

(c) From and after January 1, 2021, a participating investor may claim the credit allocated in subsection (4)(b) of this section as follows:

(i) For the 2021 taxable year, an amount equal to sixteen and sixty-six one-hundredths percent (16.66%) of the participating investor's investment of designated capital;

(ii) For the 2022 taxable year, an amount equal to sixteen and sixty-six one-hundredths percent (16.66%) of the participating investor's investment of designated capital;

(iii) For the 2023 taxable year, an amount equal to sixteen and sixty-six one-hundredths percent (16.66%) of the participating investor's investment of designated capital;

(iv) For the 2024 taxable year, an amount equal to sixteen and sixty-six one-hundredths percent (16.66%) of the participating investor's investment of designated capital;

(v) For the 2025 taxable year, an amount equal to sixteen and sixty-six one-hundredths percent (16.66%) of the participating investor's investment of designated capital; and

(vi) For the 2026 taxable year, an amount equal to sixteen and seven-tenths percent (16.7%) of the participating investor's investment of designated capital.

(d) The credit for any taxable year cannot exceed the state premium tax liability of the participating investor for the taxable year. If the amount of the credit exceeds the state premium tax liability of the participating

investor for the taxable year, the excess is an investment tax credit carryover for five (5) years from the date the credit is first able to be utilized in accordance with paragraph (a) of this subsection (3).

(e) Notwithstanding any provision of this chapter to the contrary, the granting of any credits against the insurance premium tax shall not affect the insurance premium tax receipts distributed pursuant to Sections 83-1-37, 83-1-39, 83-34-39, 45-11-5 and 21-29-233, which shall take priority over all other distributions of premium tax receipts and shall be calculated based upon gross insurance premium tax liability before the application of the tax credits.

(f) A participating investor claiming a credit under this chapter is not required to pay any additional retaliatory tax under Section 27-15-123 levied as a result of claiming the credit.

(g) A participating investor is not required to reduce the amount of tax pursuant to the state premium tax liability included by the participating investor in connection with ratemaking for any insurance contract written in this state because of a reduction in the participating investor's tax liability based on the tax credit allowed under this chapter.

(h) If the taxes paid by a participating investor with respect to its state premium tax liability constitute a credit against any other tax that is imposed by this state, the participating investor's credit against the other tax shall not be reduced by virtue of the reduction in the participating investor's tax liability based on the tax credit allowed under this chapter.

(i) Final decertification of a Mississippi small business investment company under this chapter prior to such Mississippi small business investment company meeting the requirements of Section 57-115-7(1)(a)(ii), shall result in the disallowance and the recapture of all of the credits allocated to its participating investors under this chapter. Once a Mississippi small business investment company has satisfied the requirements of Section 57-115-7(1)(a)(ii), any subsequent decertification shall not cause the disallowance or recapture of any credits allocated to its participating investors under this chapter.

(j) The credits allowed under this chapter are not transferable; however, a participating investor may transfer credits to an affiliated insurance company provided it gives prior written notice of such transfer to the MDA and the Department of Revenue.

(4)(a)(i) Through January 1, 2018, the aggregate amount of investment tax credits that may be allocated to all participating investors of Mississippi small business investment companies under this section shall not exceed Fifty Million Dollars ($50,000,000.00), and no Mississippi small business investment company, on an aggregate basis with its affiliates, may file credit allocation claims that exceed Fifty Million Dollars ($50,000,000.00).

(ii) The Fifty Million Dollars ($50,000,000.00) aggregate amount of investment tax credits allocated in this paragraph (a) shall be divided into a primary tax credit pool which may be applied for by certified primary

Mississippi small business investment companies and a secondary tax credit pool which may be applied for by certified secondary Mississippi small business investment companies. The secondary tax credit pool shall be Three Million Five Hundred Thousand Dollars ($3,500,000.00) of the total Fifty Million Dollars ($50,000,000.00) aggregate amount of investment tax credits. Secondary Mississippi small business investment companies may not apply for more than One Million Seven Hundred Fifty Thousand Dollars ($1,750,000.00) worth of credits on a single application. A certified secondary Mississippi small business investment company may apply for additional tax credit allocation from the secondary tax credit pool, if the credits are available, after fifty percent (50%) of its previously allocated credits are used in qualified investments.

(iii) If there are any tax credits remaining available for allocation in the secondary tax credit pool on August 1, 2013, those available tax credits shall revert to the primary tax credit pool and be made available to primary Mississippi small business investment companies according to rules and regulations promulgated by the MDA. Prior to August 1, 2013, primary Mississippi small business investment companies, including any wholly owned subsidiary company, shall be prohibited from making application to the MDA to be additionally certified as a secondary Mississippi small business investment company for purposes of the tax credits allocated in this paragraph (a) and prohibited from applying for any tax credit allocation from the secondary tax credit pool. A certified primary Mississippi small business investment company may have ownership equity in a certified secondary Mississippi small business investment company, but the equity interest owned by the certified primary Mississippi small business investment company shall not exceed forty percent (40%).

(b)(i) From and after July 1, 2018, an additional aggregate amount of investment tax credits may be allocated to all participating investors of Mississippi small business investment companies under this section. The amount so allocated shall not exceed Forty-five Million Dollars ($45,000,000.00), and no Mississippi small business investment company, on an aggregate basis with its affiliates, may file credit allocation claims on the additional aggregate amount of tax credits that exceed Forty-five Million Dollars ($45,000,000.00).

(ii) The Forty-five Million Dollars ($45,000,000.00) aggregate amount of investment tax credits allocated in this paragraph (b) shall be divided into a primary tax credit pool which may be applied for by certified primary Mississippi small business investment companies and a secondary tax credit pool which may be applied for by certified secondary Mississippi small business investment companies. The secondary tax credit pool shall be Three Million Five Hundred Thousand Dollars ($3,500,000.00) of the total Forty-five Million Dollars ($45,000,000.00) aggregate amount of investment tax credits. Secondary Mississippi small business investment companies may not apply for more than One Million

Seven Hundred Fifty Thousand Dollars ($1,750,000.00) worth of credits on a single application. A certified secondary Mississippi small business investment company may apply for additional tax credit allocation from the secondary tax credit pool, if the credits are available, after fifty percent (50%) of its previously allocated credits are used in qualified investments.

(iii) If there are any tax credits remaining available for allocation in the secondary tax credit pool on August 1, 2019, those available tax credits shall revert to the primary tax credit pool and be made available to primary Mississippi small business investment companies according to rules and regulations promulgated by the MDA. Prior to August 1, 2022, primary Mississippi small business investment companies, including any wholly owned subsidiary company, shall be prohibited from making application to the MDA to be additionally certified as a secondary Mississippi small business investment company for purposes of the tax credits allocated in this paragraph (b) and prohibited from applying for any tax credit allocation from the secondary tax credit pool. A certified primary Mississippi small business investment company may have ownership equity in a certified secondary Mississippi small business investment company, but the equity interest owned by the certified primary Mississippi small business investment company shall not exceed forty percent (40%).

(c) Credits must be allocated to investors in the order that the credit allocation claims are filed with the MDA.

(d) Any credit allocation claims filed with the MDA before the initial credit allocation claim filing date will be deemed to have been filed on the initial credit allocation claim filing date. The MDA will set the initial credit allocation claim filing date to be not less than one hundred twenty (120) days and not more than one hundred fifty (150) days after the date the MDA begins accepting applications for certification. Credit allocation claims filed on the same day with the MDA must be treated as having been filed contemporaneously.

(e) If two (2) or more Mississippi small business investment companies file credit allocation claims with the MDA on behalf of their respective participating investors on the same day and the aggregate amount of credit allocation claims exceeds the aggregate limit of credits authorized under this subsection (4) or the lesser amount of credits that remain unallocated on that day, then the credits shall be allocated among the participating investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one (1) participating investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a participating investor and the denominator of which is the total of all credit allocation claims filed on behalf of all participating investors on that day, by the aggregate limit of credits authorized under this subsection (4) or the lesser amount of credits that remain unallocated on that day.

(f) Within ten (10) business days after the MDA receives a credit allocation claim filed by a Mississippi small business investment company

on behalf of one or more of its participating investors, the MDA may notify the Mississippi small business investment company of the amount of credits allocated to each of the participating investors of that Mississippi small business investment company. In the event a Mississippi small business investment company does not receive an investment of designated capital from each participating investor required to earn the amount of credits allocated to the participating investor within ten (10) business days of the Mississippi small business investment company's receipt of notice of allocation, then it shall notify the MDA on or before the next business day, and the credits allocated to the participating investor of the Mississippi small business investment company will be forfeited. The MDA may then reallocate those forfeited credits among the participating investors of the other Mississippi small business investment companies on a pro rata basis with respect to the credit allocation claims filed on behalf of the participating investors. The MDA may levy a fine of not more than Fifty Thousand Dollars ($50,000.00) on any participating investor that does not invest the full amount of designated capital required to fund the credits allocated to it by the MDA in accordance with the credit allocation claim filed on its behalf.

(g) No participating investor, on an aggregate basis with its affiliates, may file an allocation claim for more than twenty-five percent (25%) of the maximum amount of investment tax credits authorized under this subsection (4), regardless of whether the claim is made in connection with one or more Mississippi small business investment companies.

**HISTORY: Laws, 2011, ch. 524, § 3; Laws, 2012, ch. 570, § 2, eff from and after July 1, 2012; Laws, 2018, ch. 458, § 1, eff from and after July 1, 2018.**

**Joint Legislative Committee Note —** Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the figure at the end of subsection (4)(a)(i) by substituting "($50,000,000.00)" for "($50,000.000.00)." The Joint Committee ratified the correction at its August 17, 2015, meeting.

**Amendment Notes —** The 2018 amendment, in (1), added (c)(vi), and added "for credits allocated in subsection (4)(a)...credits allocated in subsection (4)(b) of this section" at the end of (g); in (3), redesignated the former last sentence of (a) and former (a)(i) through (v) as the introductory paragraph of (b) and (b)(i) through (v), inserted "allocated in subsection (4)(a) of this section" in (b), added (c), and redesignated former (b) through (h) as (d) through (j); in (4)(a), added "Through January 1, 2018" at the beginning of (i), inserted "allocated in this paragraph (a)" in (ii), and inserted "for purposes of the tax credits allocated in this paragraph (a)" in (iii); added (4)(b), and redesignated former (4)(b) through (f) as (4)(c) through (g); and made minor stylistic changes.

# CHAPTER 119.

# GULF COAST RESTORATION FUND

Sec.

57-119-1. Gulf Coast Restoration Fund (GCRF) created; use of fund monies limited to projects or programs located in the Gulf Coast region.

Sec.

57-119-3. Use of fund monies only for purposes specified in this chapter and upon appropriation by the Legislature; full faith and credit of state for GCRF monies obligated or pledged as security for MDA debt.
57-119-5. Gulf Coast Restoration Fund Advisory Board created; purpose; membership.
57-119-7. Mississippi Development Authority to be administrator of the GCRF.
57-119-9. Eligible applicants for assistance; eligible projects; MDA to establish criteria for accepting and reviewing applications for assistance.
57-119-11. MDA authorized to establish programs for making loans, loan guarantees, grants, etc., to applicants with approved projects; prioritization of projects.
57-119-13. Assistance provided from GCRF cannot be used to cover 100% of the cost of approved project; contracts to include provisions for recovery of funds obtained fraudulently; performance reports.
57-119-15. Audit of recipients of assistance from GCRF; scope of review; performance audit of MDA's administration of GCRF by State Auditor; scope of audit.
57-119-17. Annual report; contents.

## § 57-119-1. Gulf Coast Restoration Fund (GCRF) created; use of fund monies limited to projects or programs located in the Gulf Coast region.

(1) There is created in the State Treasury a special fund to be designated as the "Gulf Coast Restoration Fund" (GCRF). The GCRF shall consist of funds required to be deposited into the GCRF by Section 27-103-302, funds appropriated or otherwise made available by the Legislature in any manner, and funds from any other source designated for deposit into the GCRF. Unexpended amounts remaining in the GCRF at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the GCRF shall be deposited to the credit of the GCRF.

(2) Monies in the GCRF shall be administered by the Mississippi Development Authority (MDA), and shall be used, upon appropriation by the Legislature, to provide assistance to applicants through programs or projects authorized by this chapter. Monies in the GCRF shall be used only for programs or projects that are located in the Gulf Coast region as defined in the federal RESTORE Act, or twenty-five (25) miles from the northern boundaries of the three (3) coastal counties of Harrison, Hancock and Jackson, but not to expand beyond the boundaries of Hancock, Harrison, Jackson, Pearl River, Stone, and George Counties. If a county is included in the coastal zone, then the county seat and the land lying to the east, west and south within that county would be considered a part of the coastal zone.

**HISTORY: Laws, 2018, 1st Ex Sess, ch. 3, § 3, eff from and after passage (approved September 5, 2018).**

**Editor's Notes —** Laws of 2018, 1st Extraordinary Session, ch. 3, § 12, effective September 5, 2018, provides:

"SECTION 12. (1) The State Treasurer shall transfer funds from the Budget

Contingency Fund to the following special funds in the following amounts:

"(a) Fifty-two Million Eight Hundred Ninety-three Thousand Dollars ($52,893,000.00) to the 2018 Transportation and Infrastructure Improvements Fund created in House Bill No. 1, First Extraordinary Session of 2018;

"(b) One Million Dollars ($1,000,000.00) to the Mississippi Highway-Railroad Grade Crossing Safety Account created in Section 57-43-15; and

"(c) Seven Million Five Hundred Thousand Dollars ($7,500,000.00) to the Mississippi Railroad Improvements Fund created in Section 57-46-1.

"(2) The State Treasurer shall transfer seventy-five percent (75%) of the amount remaining in the Budget Contingency Fund after the transfers required in subsection (1) of this section into the Gulf Coast Restoration Fund created in Section 3 of this act."

## § 57-119-3. Use of fund monies only for purposes specified in this chapter and upon appropriation by the Legislature; full faith and credit of state for GCRF monies obligated or pledged as security for MDA debt.

(1) Monies in the Gulf Coast Restoration Fund shall be used only for the purposes specified in this chapter, and no other expenditure, appropriation or transfer of monies in the GCRF shall be made except by an act of the Legislature making specific reference to the GCRF as the source of those monies.

(2) If any monies in the GCRF are obligated or pledged as security for any debt incurred by MDA, and the monies in the GCRF that have been obligated or pledged are later expended, appropriated, transferred, obligated or pledged for any other purpose, the debt for which the monies were originally obligated or pledged shall be the obligation and indebtedness of the State of Mississippi secured by the full faith and credit of the state.

**HISTORY: Laws, 2018, 1st Ex Sess, ch. 3, § 4, eff from and after passage (approved September 5, 2018).**

## § 57-119-5. Gulf Coast Restoration Fund Advisory Board created; purpose; membership.

(1) There is created the Gulf Coast Restoration Fund Advisory Board for the purpose of providing guidance and expertise to MDA when reviewing applications for assistance under this chapter. The advisory board shall consist of the following seven (7) members:

(a) Three (3) appointments from the Governor;

(b) Two (2) appointments from the Lieutenant Governor; and

(c) Two (2) appointments from the Speaker of the House of Representatives.

(2) The Governor shall appoint the chairman of the board and the board shall elect such other officers as it considers necessary from among its members.

(3) A majority of the members of the board shall constitute a quorum for the conduct of meetings and all actions of the board shall be by a majority vote.

(4) The Mississippi Development Authority shall provide any necessary administrative support to the board. No person nominated for, appointed to or serving as a member of the board may be an elected official.

(5) Members of the board shall serve without compensation, per diem or mileage expense.

(6) All expenses of the MDA in carrying out its duties and responsibilities under this section shall be paid from funds in the Gulf Coast Restoration Fund.

**HISTORY: Laws, 2018, 1st Ex Sess, ch. 3, § 5, eff from and after passage (approved September 5, 2018).**

## § 57-119-7. Mississippi Development Authority to be administrator of the GCRF.

(1) MDA shall be the administrator of the Gulf Coast Restoration Fund. MDA is authorized to carry out any powers and duties authorized in this chapter and shall handle all of the day-to-day matters relating to the GCRF.

(2) The annual administration expenses of MDA in carrying out its duties under this chapter shall not exceed one percent (1%) of the amount of the funds deposited into the GCRF under Section 27-103-302 for that year. MDA may recover from applicants and recipients of funds under this chapter a portion of the costs associated with administering assistance provided under this chapter, which shall not be subject to the one percent (1%) limitation under this subsection.

**HISTORY: Laws, 2018, 1st Ex Sess ch. 3, § 6, eff from and after passage (approved September 5, 2018).**

## § 57-119-9. Eligible applicants for assistance; eligible projects; MDA to establish criteria for accepting and reviewing applications for assistance.

(1) Applicants who are eligible for assistance under this section include, but are not limited to, local units of government, nongovernmental organizations, institutions of higher learning, community colleges, ports, airports, public-private partnerships, private for-profit entities, private nonprofit entities and local economic development entities. Projects that are eligible for assistance under this section are projects that have the potential to generate increased economic activity in the region, as described in Section 57-119-11(3).

(2) MDA shall establish criteria, rules, and procedures for accepting and reviewing applications for assistance under this section. MDA, with advice from the Gulf Coast Restoration Fund Advisory Board, shall review, compile and score all timely received applications, and shall present the applications and its recommendations for assistance to individual projects under this section to the Legislature no later than December 1 of the year. The Legislature shall determine individual projects that will be funded under this section by separate line items in an appropriation bill.

(3) Applications for assistance under this section will be received through web portals set up by MDA. MDA shall set criteria for the web portal which may include protection of the confidentiality of any or all of the application.

**HISTORY: Laws, 2018, 1st Ex Sess, ch. 3, § 7, eff from and after passage (approved September 5, 2018).**

## § 57-119-11. MDA authorized to establish programs for making loans, loan guarantees, grants, etc., to applicants with approved projects; prioritization of projects.

(1) MDA is further authorized, on such terms and conditions consistent with the criteria set forth in this section as it may determine, to establish programs for making loans, loan guarantees, grants and any other financial assistance from the GCRF to applicants whose projects are approved for assistance under this section. MDA shall establish criteria, rules and procedures for accepting, reviewing, granting or denying applications, and for terms and conditions of financial assistance under this section in accordance with state law. The Legislature shall appropriate monies from the GCRF to the MDA to fund the programs established under this section in an amount requested annually by MDA for such purpose.

(2) Applicants who are eligible for assistance under this section include, but are not limited to, local units of government, nongovernmental organizations, institutions of higher learning, community colleges, ports, airports, public-private partnerships, private for-profit entities, private nonprofit entities, and local economic development entities.

(3) MDA shall establish programs and an application process to provide assistance to applicants under this section that prioritize:

(a) Projects that will impact the long-term competitiveness of the region and may result in a significant positive impact on tax base, private sector job creation and private sector investment in the region;

(b) Projects that demonstrate the maximum long-term economic benefits and long-term growth potential of the region based on a financial analysis such as a cost-benefit analysis or a return-on-investment analysis;

(c) Projects that demonstrate long-term financial sustainability, including clear performance metrics, over the duration of the project;

(d) Projects that leverage or encourage leveraging of other private sector, local, state and federal funding sources with preference to projects that can demonstrate contributions from other sources than funds from the BP settlement;

(e) Projects that are supported by multiple government or private sector entities;

(f) Projects that can move quickly and efficiently to the design, engineering, and permitting phase;

(g) Projects that enhance the quality of life/place and business environment of the region, including tourism and recreational opportunities;

(h) Projects that expand the region's ability to attract high-growth industries or establish new high-growth industries in the region;

(i) Projects that leverage or further enhance key regional assets, including educational institutions, research facilities, ports, airports, rails and military bases;

(j) Projects that are transformational for the future of the region but create a wider regional impact;

(k) Projects that enhance the marketability of existing industrial properties;

(*l*) Projects that enhance a targeted industry cluster or create a Center of Excellence unique to the region;

(m) Infrastructure projects for business retention and development;

(n) Projects that enhance research and innovative technologies in the region; and

(o) Projects that provide outcome and return on investment measures, to be judged by clear performance metrics, over the duration of the project or program.

**HISTORY: Laws, 2018, 1st Ex Sess, ch. 3, § 8, eff from and after passage (approved September 5, 2018).**

## § 57-119-13. Assistance provided from GCRF cannot be used to cover 100% of the cost of approved project; contracts to include provisions for recovery of funds obtained fraudulently; performance reports.

(1) Assistance provided under this chapter may not be used to finance one hundred percent (100%) of the cost of any project.

(2) Contracts executed by MDA with recipients of assistance under this chapter must include provisions requiring a performance report on the contracted activities, must account for the proper use of funds provided under the contract, and must include provisions for recovery of assistance if the assistance was based upon fraudulent information or the recipient of the assistance is not meeting the performance requirements established by MDA of the assistance. Recipients of assistance under this chapter must regularly report to MDA the status of the project on a schedule determined by MDA.

**HISTORY: Laws, 2018, 1st Ex Sess, ch. 3, § 9, eff from and after passage (approved September 5, 2018).**

## § 57-119-15. Audit of recipients of assistance from GCRF; scope of review; performance audit of MDA's administration of GCRF by State Auditor; scope of audit.

(1) The scope of a financial audit of recipients of assistance under this chapter shall include funds related to any year in which the recipient receives assistance under this chapter. The scope of review for these funds shall include, but is not limited to, compliance with state and federal laws related to the receipt and expenditure of those funds and the criteria established by MDA.

(2) The State Auditor shall conduct performance audits of MDA's administration of the GCRF under this chapter. The scope of review shall include, but is not limited to, evaluating internal controls, internal audit functions, reporting and performance requirements required for use of the assistance, and compliance with state and federal law. The audit shall include any funds disbursed under this chapter and matching funds provided in the contract with MDA.

(3) In addition to the rules of the State Auditor, the State Auditor shall adopt rules for the form and conduct all financial audits performed by independent certified public accountants and for audits of recipients of assistance under this chapter.

(4) The State Auditor may report findings to the Secretary of the Treasury of the United States in addition to the reporting requirements under state law.

(5) The costs of the audits performed as provided in this section may be paid from the GCRF.

**HISTORY: Laws, 2018, 1st Ex Sess, ch. 3, § 10, eff from and after passage (approved September 5, 2018).**

## § 57-119-17. Annual report; contents.

MDA shall file an annual report with the Speaker of the House, the Lieutenant Governor, the Chairs of the Appropriations Committees of the House and the Senate, and the Legislative Budget Office not later than December 1 of each year, including detailed information regarding at least the following specific areas:

(a) Receipts and expenditures of the funds received and provided as assistance under this chapter;

(b) Expenditures for all administration expenses of MDA in carrying out its duties under this chapter;

(c) Overview of applications reviewed and a detailed description of applications approved for assistance for the current year; and

(d) Schedule of all applications for which assistance was provided under this chapter detailing status of progress, start date, anticipated completion date, benchmark achievements, and any modifications to the original application after receipt of assistance.

**HISTORY: Laws, 2018, 1st Ex Sess, ch. 3, § 11, eff from and after passage (approved September 5, 2018).**

# CHAPTER 121.

# 2020 COVID-19 MISSISSIPPI BUSINESS ASSISTANCE ACT.

Sec.

57-121-1. Short title.
57-121-3. Definitions.

Sec.

57-121-5. Back to Business Mississippi Grant Program established; purpose; administration of program.
57-121-7. Application for grant; use of funds; program terms and conditions.
57-121-9. Back to Business Mississippi Grant Fund.
57-121-11. Effectuation of chapter; verification of applicant tax information; promotion of childcare organization applications; notification to registered businesses of grant availability.

## § 57-121-1. Short title.

This chapter shall be known and may be cited as the "2020 COVID-19 Mississippi Business Assistance Act."

**HISTORY: Laws, 2020, ch. 303, § 5, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020).**

**Editor's Notes —** Laws of 2020, ch. 303, § 3, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act."

Laws of 2020, ch. 303, § 12, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

**Amendment Notes —** The 2020 amendment, effective August 18, 2020, made no changes to the section as it was added by Chapter 303, § 5, Laws of 2020.

## § 57-121-3. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed unless the context otherwise requires:

(a) "COVID-19" means the Coronavirus Disease 2019.

(b) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act.

(c) "Eligible business" means a for-profit corporation, a limited liability company, a partnership or a sole proprietorship that:

(i) Was domestic as of March 1, 2020;

(ii) Is in good standing with the Secretary of State, if applicable;

(iii) Suffered an interruption of business;

(iv) Has a controlling interest owned by one or more Mississippi residents, whether individual resident citizens or Mississippi domestic business entities;

(v) Filed Mississippi taxes for tax year 2018 or 2019, or, for an eligible business formed on or after January 1, 2020, intends to file Mississippi taxes for tax year 2020, unless exempt under Section 27-7-29, Section 27-13-63 or other applicable provision of law;

(vi) Has customers or employees coming to its physical premises, conducts business on customer premises, or has an owner who is an active participant in the day-to-day operations of the business;

(vii) Had no more than fifty (50) full-time equivalent employees as of March 1, 2020;

(viii) Is not a subsidiary of a business with more than fifty (50) full-time equivalent employees, is not part of a larger business enterprise with more than fifty (50) full-time equivalent employees and is not owned by a business with more than fifty (50) full-time equivalent employees;

(ix) Does not exist for the purpose of advancing partisan political activities, does not directly lobby federal or state officials as provided in Sections 5-8-1 through 5-8-23, and has not employed or otherwise worked with a lobbyist as defined in Section 5-8-3 in any way at any point during 2020; and

(x) Does not derive income from passive investments without active participation in business operations.

(d) "Interruption of business" means disruption of regular business operations resulting from required or voluntary closure related to COVID-19.

(e) "Public health measure" means any action reasonably taken to prevent the spread of COVID-19 in the workplace.

(f) "Eligible expense" means a cost incurred by an eligible business for public health measures or due to interruption of business. Eligible expenses due to interruption of business may consist only of mortgage interest, rent, payroll and utilities, or other COVID-19-related expenses allowed by law, each for no more than a two-month period. Eligible expenses shall not include lost profits. No cost will be considered an eligible expense if found to

be ineligible under the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States Department of the Treasury regarding the use of monies from the Coronavirus Relief Fund established by the CARES Act.

(g) "MDA" means the Mississippi Development Authority.

(h) "Grant" means an award by the MDA to an eligible business to cover eligible expenses in accordance with this chapter.

(i) "Program" means the Back to Business Mississippi Grant Program established in this chapter.

(j) "Minority business enterprise" means a socially and economically disadvantaged small business concern performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this chapter, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act, 15 USC Section 637(a), or women, and the term "owned and controlled" means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business.

**HISTORY: Laws, 2020, ch. 303, § 6, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020).**

**Editor's Notes —** Laws of 2020, ch. 303, § 3, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of

this act."

Laws of 2020, ch. 303, § 12, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

**Amendment Notes —** The 2020 amendment, effective August 18, 2020, made no changes to the section as it was added by Chapter 303, § 6, Laws of 2020.

## § 57-121-5. Back to Business Mississippi Grant Program established; purpose; administration of program.

(1) The Legislature facilitates access by Mississippi small businesses to federal relief and recovery funds related to COVID-19. Accordingly, the Back to Business Mississippi Grant Program is established, to be administered by the MDA, for the purpose of making grants to eligible businesses to reimburse them for eligible expenses as defined in this chapter.

(2) From the date of the beginning of the period for applications for grants under this section, the MDA shall for the first twenty-one (21) days of the application period only consider and review applications from eligible businesses that (i) did not receive a United States Small Business Administration-Guaranty Paycheck Protection Program loan and/or a United States Small Business Administration Economic Injury Disaster Loan Emergency Advance, (ii) did not receive and has not been awarded reimbursement under any other federal program for the expenses that will be reimbursed by a grant under this section and (iii) did not receive compensation from an insurance company for the interruption of business. After the completion of such twenty-one-day period, the MDA shall consider and review applications from any eligible businesses. The MDA shall not consider applications filed after September 15, 2020.

(3) The MDA shall develop regulations, procedures and application forms to govern the administration of the program. The MDA may enter into a personal services contract, subject to approval by the Public Procurement Review Board, for the administrative services of the program. The contract shall be let and awarded after receiving at least two (2) bids for time and expense not to exceed Nine Hundred Thousand Dollars ($900,000.00). The MDA may retain up to Nine Hundred Thousand Dollars ($900,000.00) of monies available under this chapter to pay reasonable expenses incurred in the administration of the program.

**HISTORY: Laws, 2020, ch. 303, § 7, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020).**

**Editor's Notes —** Laws of 2020, ch. 303, § 3, as amended by Laws of 2020, ch. 494,

§ 1, effective August 18, 2020, provides:

"SECTION 1. Section 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act."

Laws of 2020, ch. 303, § 12, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

**Amendment Notes —** The 2020 amendment, effective August 18, 2020, in (2), added the last sentence.

## § 57-121-7. Application for grant; use of funds; program terms and conditions.

(1) Any eligible business desiring to participate in the program shall make application for a grant to the MDA in a form satisfactory to the MDA. The application shall include verified documentation, signed under penalty of perjury.

(2) The MDA shall use the funds provided by this chapter to make grants to eligible businesses pursuant to applications submitted under subsection (1) of this section, to cover their eligible expenses.

(3) The use of grants shall be subject to audit by the United States Department of the Treasury's Office of Inspector General and the Mississippi Office of the State Auditor. A business found to be fully or partially noncompliant with grant requirements shall return to the state all or a portion of the grant monies received. Applicants shall confirm their understanding of these terms.

(4) The program shall be subject to the following terms and conditions:

(a) The base payment to an eligible business shall be Three Thousand Five Hundred Dollars ($3,500.00). An eligible business may choose to receive additional compensation by either claiming Five Hundred Dollars ($500.00) per full-time equivalent employee employed by the eligible business as of March 1, 2020, or itemizing eligible expenses on the application form. The amount of a payment under this section shall not be reduced by Two Thousand Dollars ($2,000.00) for any direct payment received under Section 27-3-85. In no event shall the total payment to an eligible business under this section exceed Twenty-five Thousand Dollars ($25,000.00).

(b) At least Forty Million Dollars ($40,000,000.00) in grants, exclusive of administrative expenses retained by the MDA, shall be awarded to minority business enterprises for the first sixty (60) days of the application period.

(c) Grants awarded shall be protected from creditors and shall not be subject to tax; however, eligible expenses for which grants are received may not be itemized as tax deductions.

**HISTORY: Laws, 2020, ch. 303, § 8, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020).**

**Editor's Notes —** Laws of 2020, ch. 303, § 3, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act."

Laws of 2020, ch. 303, § 12, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall

remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

**Amendment Notes —** The 2020 amendment, effective August 18, 2020, in (4)(a), substituted "Three Thousand Five Hundred Dollars ($3,500.00)" for "One Thousand Five Hundred Dollars ($1,500.00)" in the first sentence, deleted the former third sentence, which read: "The total payment shall be reduced by the amount of any Paycheck Protection Program (PPP) funds, Economic Injury Disaster Loan (EIDL) Emergency Advance funds up to a maximum of Ten Thousand Dollars ($10,000.00), and business interruption insurance proceeds received by the eligible taxpayer; provided, however, that the total payment shall not be reduced by more than half," and added the next-to-last sentence.

## § 57-121-9. Back to Business Mississippi Grant Fund.

There is created a special fund in the State Treasury, to be known as the "Back to Business Mississippi Grant Fund," from which the grants authorized by this chapter shall be disbursed by the MDA. All monies shall be disbursed from the fund in compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States Department of the Treasury regarding the use of monies from the Coronavirus Relief Fund established by the CARES Act.

**HISTORY: Laws, 2020, ch. 303, § 9, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020); Laws, 2020, ch. 502, § 2, eff from and after passage (became law without the Governor's signature on October 9, 2020).**

**Joint Legislative Committee Note —** Section 9 of Chapter 303, Laws of 2020, effective from and after passage (approved May 20, 2020), added this section. Section 1 of Chapter 494, Laws of 2020, effective from and after passage (became law without the Governor's signature on August 18, 2020), amended this section. Section 2 of Chapter 502, Laws of 2020, effective from and after passage (became law without the Governor's signature on October 9, 2020), also amended this section. As set out above, this section reflects the language of Section 2 of Chapter 502, Laws of 2020, which contains language that specifically provides that it supersedes § 57-121-9 as added by Chapter 303 and amended by Chapter 494, Laws of 2020.

**Editor's Notes —** Laws of 2020, ch. 303, § 3, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This

payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act."

Laws of 2020, ch. 303, § 12, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

**Amendment Notes —** The first 2020 amendment (ch. 494), effective August 18, 2020, made no changes in the section.

The second 2020 amendment (ch. 502), effective October 9, 2020, deleted the former last sentence, which read: "If on November 1, 2020, there are unobligated monies in the fund, the Governor shall have the discretion to transfer monies to another state agency to be used for eligible expenditures pursuant to the CARES Act."

## § 57-121-11. Effectuation of chapter; verification of applicant tax information; promotion of childcare organization applications; notification to registered businesses of grant availability.

To effectuate the purposes of this chapter, any office, division, board, bureau, committee, institution or agency of the state, or any political subdivision thereof, shall, at the request of the MDA, provide the employees, facilities, assistance, information and data needed to enable the MDA to carry out its duties. The MDA shall, at a minimum, work with the Department of Revenue to verify applicant tax information, and with the Department of Human Services to promote application by childcare organizations.

As soon as possible after May 20, 2020, the Secretary of State shall notify all registered businesses of the availability of grants under the program.

**HISTORY: Laws, 2020, ch. 303, § 10, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020).**

**Editor's Notes —** Laws of 2020, ch. 303, § 3, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social

distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act."

Laws of 2020, ch. 303, § 12, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 1. Section 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

**Amendment Notes —** The 2020 amendment, effective August 18, 2020, made no changes to the section as it was added by Chapter 303, § 10, Laws of 2020.

# CHAPTER 123.

# CORONAVIRUS RECOVERY FUNDS.

Sec.

57-123-1. Legislative purpose.
57-123-3. Mississippi Tourism Recovery Fund created; definitions; disbursement and allocation of funds; repayment of funds to federal government for improper use of funds.
57-123-5. Mississippi Nonprofit Museums Recovery Fund created; disbursement of funds.

## § 57-123-1. Legislative purpose.

The COVID-19 public health emergency has had a significant negative impact on Mississippi's tourism industry and its nonprofit museums. The funds provided in this chapter are necessary expenditures related to COVID-19, the purpose of which is to publicize the resumption of tourism activities and steps taken to ensure a safe tourism experience and to assist nonprofit museums with costs associated with cleaning, disinfection, social distancing

measures and/or other health and safety measures necessary for such museums to reopen to the public.

**HISTORY: Laws, 2020, ch. 490, § 1, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

## § 57-123-3. Mississippi Tourism Recovery Fund created; definitions; disbursement and allocation of funds; repayment of funds to federal government for improper use of funds.

(1) As used in this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Destination marketing organization" means special local governmental units created by local and private laws of the State of Mississippi for the purpose of tourism promotion, funded by special local tax levies, and staffed with professionals engaged in out-of-state tourism marketing and tourism product development for municipalities, counties and/or regions.

(b) "Marketing activities" means multimedia marketing and advertising, including digital media, broadcast media and printed media, including travel publications, production, travel market sector analysis, consumer travel sentiment, public relations, communication strategy, direct sales bookings, group tour bookings, tourism development and administrative costs to execute marketing activities related to the business disruption effects of the Coronavirus Disease 2019 as expressed in Section 57-123-1.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the "Mississippi Tourism Recovery Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Department of Finance and Administration, upon appropriation by the Legislature, for the purposes provided in this section. Monies in the fund shall be disbursed in compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States Department of the Treasury regarding the use of monies from the Coronavirus Relief Fund established by the Coronavirus Aid, Relief, and Economic Security Act. If on December 1, 2020, there are unexpended monies in the fund, those monies shall be transferred to the Unemployment Compensation Fund. Monies in the fund shall be disbursed by the Department of Finance and Administration as follows:

(i) Two Hundred Fifty Thousand Dollars ($250,000.00) shall be disbursed to the Tate County Economic Development Foundation for use by

the foundation to assist the Senatobia Chamber of Commerce Main Street program in paying the costs of marketing activities;

(ii) Two Hundred Fifty Thousand Dollars ($250,000.00) shall be disbursed to the Brookhaven Tourism Council to assist in paying the costs of marketing activities; and

(iii) Thirteen Million Five Hundred Thousand Dollars ($13,500,000.00) shall be disbursed as provided in paragraph (b) of this subsection (2) to assist destination marketing organizations in paying costs for marketing activities.

(b)(i) The Department of Finance and Administration shall determine, in conjunction with the destination marketing organizations, the allocations of monies provided under paragraph (a)(iii) of this subsection (2) as follows:

1. Not more than Nine Million Seven Hundred Forty-four Thousand Seven Hundred Eighty-eight Dollars ($9,744,788.00) of such monies shall be allocated to destination marketing organizations in a manner that will provide monies to a destination marketing organization in an amount equal to seventy-five percent (75%) of the destination marketing organization's marketing and advertising expenditures during the 2019 fiscal year, and

2. Not more than Three Million Seven Hundred Fifty-five Thousand Two Hundred Thirteen Dollars ($3,755,213.00) of such monies shall be allocated to destination marketing organizations based on the proportion that a destination marketing organization's contribution toward total tourism visitors in the state according to the 2019 Fiscal Year Visit Mississippi Visitors Profile Report bears to all destination marketing organizations' contributions toward total tourism visitors in the state according to the 2019 Fiscal Year Visit Mississippi Visitors Profile Report. However, a destination marketing organization shall not receive an amount less than Seventy-five Thousand Dollars ($75,000.00) under this item 2.

(ii) Within fifteen (15) days of enactment, the Department of Finance and Administration shall distribute the funds allocated under paragraph (b)(i) to eligible destination marketing organizations. Before receiving funds under this paragraph (b), a destination marketing organization must certify to the Department of Finance and Administration that:

1. The funds will only be used for marketing activities, and

2. The funds will be expended before December 30, 2020, unless otherwise authorized by federal law or guidance.

(iii) Destination marketing organizations receiving funds under this paragraph (b) shall keep and maintain records related to expenditures. Destination marketing organizations receiving funds under this paragraph (b) shall also track impacts of their marketing activities through special levy tax receipts, hotel occupancy indicators, other tourism industry metrics, and analytics from marketing campaigns, as appropriate. Such destination marketing organizations shall provide quarterly reports

on expenditures and economic impacts of their marketing activities to the Department of Finance and Administration, the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the Department of Audit.

(iv) Subject to applicable purchasing laws, destination marketing organizations will give preference, when available and practical, to Mississippi-based companies for any new contracts entered into for marketing activities.

(3) The Department of Finance and Administration and the Department of Audit shall have all powers necessary for the implementation of this section.

(4) If the Office of Inspector General of the United States Department of the Treasury, or the Office of Inspector General of any other federal agency having oversight over the use of monies from the Coronavirus Relief Fund established by the CARES Act (a) determines that the Department of Finance and Administration or recipient has expended or otherwise used any of the funds appropriated to the Department of Finance and Administration under this chapter for any purpose that is not in compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, by the United States Department of the Treasury regarding the use of monies from the Coronavirus Relief Fund established by the CARES Act, and (b) the State of Mississippi is required to repay the federal government for any of those funds that the Office of the Inspector General determined were expended or otherwise used improperly by the Department of Finance and Administration or recipient, then the Department of Finance and Administration or recipient, as the case may be, that expended or otherwise used those funds improperly shall be required to pay the amount of those funds to the State of Mississippi for repayment to the federal government.

**HISTORY: Laws, 2020, ch. 490, § 3, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Editor's Notes** — Laws of 2020, ch. 490, § 2, effective July 9, 2020, provides:

"SECTION 2. (1) Upon the effective date of this act, the State Fiscal Officer shall transfer the sum of Fourteen Million Dollars ($14,000,000.00) from the Budget Contingency Fund to the Mississippi Tourism Recovery Fund created by Section 3 of this act.

"(2) Upon the effective date of this act, the State Fiscal Officer shall transfer the sum of One Million Dollars ($1,000,000.00) from the Budget Contingency Fund to the Mississippi Nonprofit Museums Recovery Fund created by Section 4 of this act."

**Federal Aspects** — Coronavirus Aid, Relief, and Economic Security Act (CARES Act), see 116 P.L. 136, 134 Stat. 281.

## § 57-123-5. Mississippi Nonprofit Museums Recovery Fund created; disbursement of funds.

(1) There is hereby created in the State Treasury a special fund to be designated as the "Mississippi Nonprofit Museums Recovery Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. The fund

shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Department of Finance and Administration, upon appropriation by the Legislature, for the purposes provided in this section. Monies in the fund shall be disbursed in compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, by the United States Department of the Treasury regarding the use of monies from the Coronavirus Relief Fund established by the Coronavirus Aid, Relief, and Economic Security Act. If on December 1, 2020, there are unexpended monies in the fund, those monies shall be transferred to the Unemployment Compensation Fund. Monies in the fund shall be disbursed by the Department of Finance and Administration to assist nonprofit museums in paying costs associated with cleaning, disinfection, social distancing measures and/or other health and safety measures necessary in order to reopen to the public due to the Coronavirus 2019. The Department of Finance and Administration shall take into consideration the attendance, annual revenue and operating expenses when allocating such monies under this section.

(2) The Department of Finance and Administration shall have all powers necessary for the implementation of this section.

**HISTORY: Laws, 2020, ch. 490, § 4, eff from and after passage (became law without the Governor's signature on July 9, 2020).**

**Editor's Notes —** Laws of 2020, ch. 490, § 2, effective July 9, 2020, provides:

"SECTION 2. (1) Upon the effective date of this act, the State Fiscal Officer shall transfer the sum of Fourteen Million Dollars ($14,000,000.00) from the Budget Contingency Fund to the Mississippi Tourism Recovery Fund created by Section 3 of this act [codified as § 57-123-3].

"(2) Upon the effective date of this act, the State Fiscal Officer shall transfer the sum of One Million Dollars ($1,000,000.00) from the Budget Contingency Fund to the Mississippi Nonprofit Museums Recovery Fund created by Section 4 of this act [codified as § 57-123-5]."